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BOROUGH OF BUTLER

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2015

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Tools for Finding Information – In addition to the municipality’s legislation, this publication contains tools to help locate information: table of contents, index, chapter outlines (schemes), and a disposition list.

Chapters – Chapters are generally discrete pieces of legislation but can also be made up of several individual pieces on a related topic. In that case, the individual pieces are arranged into articles or parts within the chapter. If you are familiar with a former number or title, look for it chronologically in the disposition list.

Reserved Chapters – In the numbering of chapters, space has been provided for the convenient insertion, alphabetically, of later enactments. Help in selecting an appropriate number for a new chapter is available from the editor. See also the “Instructions for Amending the Code” in the Preface.

Section Numbering – A chapter-related section-numbering system is employed. Each section of every item of legislation is assigned a number, which indicates both the number of the chapter in which the item of legislation is located and the location of the section within that chapter. Thus, the fourth section of Chapter 6 is § 6-4.

Scheme – The scheme is the list of section titles that precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the scheme titles are repeated as section headings in the text.

Page Numbers – A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a colon and the numeral “1.” Thus, Chapter 6 begins on page 6:1. By the use of this system, it is possible to add or to change pages in any chapter, or add new chapters, without affecting the sequence of subsequent pages.

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[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Definitions and Word Usage

[Adopted as Ch. I of the Revised General Ordinances of 1976]

§ 1-1. Definitions.

For the purpose of this Code, and in the interpretation and application of all other ordinances heretofore or hereafter adopted, except as the context may otherwise require, the following terms shall have the meanings indicated:

BOROUGH — The Borough of Butler in the County of Morris and State of New Jersey.

BOROUGH COUNCIL or **COUNCIL** — The Mayor and Councilmen of the Borough. **CLERK** or

BOROUGH CLERK — The Municipal Clerk duly appointed pursuant to law.

DEPARTMENT — An organizational unit of the Borough government established or designated by ordinance or this Code as a department, together with any agency or instrumentality of the Borough government assigned to the organizational unit by the Borough Council.

LICENSED — Licensed in accordance with the appropriate section or chapter of this Code.

MONTH — A calendar month unless otherwise specifically provided.

ORDINANCE — Any of local legislation heretofore or hereafter adopted, and including this Code, so long as it shall have been adopted by the procedure required for the adoption of an ordinance and so long as it shall remain in force and effect pursuant to law.

PERSON — Any individual, natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts, corporations or unincorporated groups; or any officers, agents, employees, servants, factors or any kind of personal representatives of any thereof in any capacity, acting either for himself or for any other person, under either personal appointment or pursuant to law.

STREET — Shall include a street, avenue, road, alley, lane, highway, boulevard, concourse, driveway, culvert, sidewalk and crosswalk, and every class of road, square, place or municipal parking field used by the general public.

YEAR — A calendar year unless otherwise specifically provided.

§ 1-2. Word usage.

For the purpose of this Code and any other ordinances heretofore or hereafter adopted, except as the context may otherwise require:

- A. The present tense includes the past and future tenses, and the future, the present; the masculine gender includes the feminine and neuter; the singular number includes the plural, and the plural, the singular; "shall" is mandatory and "may" is permissive.
- B. The time within which an act is to be done shall be computed by excluding the first and including the last day; and, if the last day is a Sunday, a legal holiday, or a day on which the offices of the Borough are closed, that day shall be excluded.
- C. "Writing" and "written" shall include printing, typewriting and any other mode of communication using paper or similar material which is in general use, as well as legible handwriting.
- D. Whenever a specific time is used in this Code, it shall mean the prevailing and established time in effect in the State of New Jersey during any day in any year.
- E. "Chapter" shall mean one of the major divisions of the Code identified by an Arabic number and divided by subject matter.
- F. "Section" shall mean a major division of a chapter.
- G. "Subsection" shall mean a division of a section, identified by letters and numbers.
- H. "Used" shall include "designed, intended, or arranged to be used."

ARTICLE II

**Adoption of Code by Mayor and Council
[Adopted 6-7-1982 by Ord. No. 82-5]****§ 1-3. Adoption of Code.**

Pursuant to N.J.S.A. 40:49-4, the ordinances of the Borough of Butler of a general and permanent nature adopted by the Mayor and Council of the Borough of Butler, as revised, codified and consolidated into chapters and sections by General Code Publishers Corp. and consisting of Chapters 1 through 235, are hereby approved, adopted, ordained and enacted as the "Code of the Borough of Butler," hereinafter known and referred to as the "Code."

§ 1-4. Code supersedes prior ordinances.

This ordinance and the Code shall supersede all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force and effect hereinafter.

§ 1-5. When effective.

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

§ 1-6. Inclusion of ordinance in Code.

This ordinance shall, upon adoption, be included in the Code as Chapter 1, General Provisions, Article II, Adoption of Code by Mayor and Council.

§ 1-7. Copy of Code on file.

A copy of the Code in loose-leaf form has been filed in the office of the Borough Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance; and, if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the Borough of Butler by impressing thereon the Seal of the Borough as provided by law, and such certified copy shall remain on file in the office of the Clerk of the Borough, to be made available to persons desiring to examine same during all times while the said Code is in effect.

§ 1-8. Amendments to Code.

Any and all additions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intent of the governing body to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Borough of Butler" shall be understood and intended to include such additions and amendments. Whenever such additions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code, as amendments and supplements thereto.

§ 1-9. Publication; filing.

The Clerk of the Borough of Butler, pursuant to law, shall cause to be published, in the manner required, a copy of this adopting ordinance in a newspaper of general circulation in the Borough. Sufficient copies of the Code shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this adopting ordinance, coupled with the availability of copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-10. Code book to be kept up-to-date.

It shall be the duty of the Clerk, or someone authorized and directed by the Clerk, to keep up-to-date the certified copy of the book containing the Code required to be filed in the office of the Clerk for use by the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-11. Sale of Code book.

Copies of the Code book containing the Code may be purchased from the Clerk upon the payment of a fee to be set by resolution of the Mayor and Council, which may also arrange, by resolution, for procedures for the periodic supplementation thereof.

§ 1-12. Altering or tampering with Code; penalties for violation. [Amended 4-18-2006 by Ord. No. 2006-7]

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Borough of Butler to be misrepresented thereby. Anyone violating this section or part of this ordinance shall be subject, upon conviction, to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

§ 1-13. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-14. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-15. Repeal of ordinances.

All ordinances or parts of ordinances of a general and permanent nature adopted and in force on the date of the adoption of this ordinance and not contained in the Code are hereby repealed as of the effective date of this adopting ordinance, except as hereinafter provided.

§ 1-16. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-15 of this ordinance shall not effect the following ordinances, rights and obligations, which are hereby expressly saved from repeal.

- A. Any ordinance adopted subsequent to May 4, 1981.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance, or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision, or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending, or any judgment rendered, prior to the effective date of this ordinance, brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing of grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place, or any portion thereof.
- G. Any ordinance or resolution appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the Borough's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- I. The levy or imposition of taxes, assessments or charges.

- J. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees of the Borough of Butler.
- K. All ordinances of the Borough providing for the preparation and use of maps.
- L. All ordinances of the Borough establishing personnel policies or regulating Borough employees.

§ 1-17. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for adoption and revision as part of the Code pursuant to N.J.S.A. 40:49-4, certain grammatical changes and other minor changes were made in one or more of said ordinances. It is the intention of the Mayor and Council that all such changes be adopted as part of the Code as if the ordinances so changed had been previously formally amended to read as such.
- B. In addition, the following changes, amendments or revisions are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)¹

1. Editor's Note: Pursuant to § 1-17B, the following sections were added or amended at time of adoption of Code. A complete description of each change is on file in the office of the Borough Clerk.

A. Sections added or amended: §§ 4-3D, 93-2B, 136-3, 143-5, 143-16, 143-26, 143-39, 143-52, 207-4, 207-5, 207-6 and 223-1.

B. Penalty sections amended: §§ 65-9, 67-7, 67-12, 69-7, 79-4, 82-3, 85-2, 93-10, 101-5, 117-3, 122-7, 136-4, 150-16, 153-19, 155-7, 160-5, 168-4, 171-12, 174-12, 184-7, 184-14, 187-2, 191-32A and B, 196-5, 199-8, 202-3, 207-7, 213-10A and B, 218-4, 223-6 and 234-9B(2) and (3).

C. Former provisions repealed: Sections 2-2.2, 2-4, 2-5, 2-10, 2-14, 2-18 and 2-19 of Chapter II of the Revised General Ordinances.

Chapter 4

ADMINISTRATION OF GOVERNMENT

- § 4-1. Title.
- § 4-2. Borough Council.
- § 4-3. Meetings.
- § 4-4. Mayor.
- § 4-5. President of the Council.
- § 4-6. Committees.
- § 4-7. Duties of standing committees.
- § 4-8. Borough Clerk.
- § 4-8.1. Borough Deputy Clerk.
- § 4-9. Municipal Administrator.
- § 4-10. Administrative Analyst.
- § 4-11. Borough Attorney.
- § 4-12. Borough Engineer.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as part of Ch. II of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Officers and employees — See Ch. 36.](#)

[Salaries and compensation — See Ch. 47.](#)

§ 4-1. Title.

This chapter shall be known and may be cited as the "Administrative Code of the Borough of Butler" and is herein referred to as the "code."

§ 4-2. Borough Council. [Amended 5-9-1989 by Ord. No. 13-89]

- A. Organization. The Council shall consist of six Councilmen elected at large in the Borough, all of whom shall be elected and take office in the manner provided by law. The term of office of the Councilmen shall commence on January 1 next following their election.
- B. Powers of Council.
 - (1) The Council shall be the legislative body of the municipality.
 - (2) The Council may, subject to general law:
 - (a) Pass, adopt, amend and repeal any ordinance or, where permitted, any resolution for any purpose required for the government of the municipality or for the accomplishment of any public purpose for which the municipality is authorized to act under general law.
 - (b) Control and regulate the finances of the municipality and raise money by borrowing or taxation.

- (c) Create such offices and positions as it may deem necessary. The officers appointed thereto shall perform the duties required by law and the ordinance of the Council. Officers shall serve at the pleasure of the Council, except as otherwise provided by law. **[Amended 12-11-1990 by Ord. No. 1990-27]**
 - (d) Investigate any activity of the municipality.
 - (e) Remove any officer of the municipality, other than those officers excepted by law, for cause.
 - (f) Override a veto of the Mayor by a 2/3 majority of all the members of the Council.
- (3) The Council shall have all the executive responsibilities in the municipality not placed, by general law or this act, in the office of the Mayor.
- (4) The Council, whenever it fails to confirm the nomination by the Mayor of any official to a subordinate office of the Borough within 30 days of being presented such nomination, shall make the appointment to that office, provided that at least three affirmative votes shall be required for such purpose, the Mayor to have no vote thereon, except in the case of a tie.¹

§ 4-3. Meetings. [Amended 5-9-1989 by Ord. No. 13-89]

- A. Annual meeting. The Mayor and Council shall hold an annual meeting on the first day of January at 12:00 noon or during the first seven days of January in any year. The Council has the right to fix the time for the annual meeting at any other time permitted by law if it so desires.
- B. Regular meetings. At the annual meeting, the Council shall fix the time and place for holding regular meetings during the ensuing year, which time and place may not be changed, except by a resolution duly adopted at a regular meeting.
- C. Election of President of the Council. At its annual meeting, the Council shall, by the vote of a majority of its number, elect a President of the Council, who shall preside at all its meetings when the Mayor does not preside. The President of the Council shall hold office for one year and until the next annual meeting. He shall have the right to debate and vote on all questions before Council. If the Council fails to elect a President at the annual meeting, the Mayor shall appoint the President from the Council and, in that case, no confirmation by the Council shall be necessary.
- D. Standing committees. The Council may, at its annual meeting, establish for its members such committees of the Council as will assist it for the ensuing year. **[Added 6-7-1982 by Ord. No. 82-5]**
- E. Special meetings. The Mayor shall, when necessary, call special meetings of the Council. In case of his neglect or refusal, any four members of the Council may call such meeting

1. Editor's Note: Original Subsection 2-2.2, Vacancies, which immediately followed hereafter, was deleted 6-7-1982 by Ord. No. 82-5.

at such time and place in the Borough as they may designate, and in all cases of special meetings, notice shall be given to all the members of the Council or left at their place of residence. The Council shall hold such other meetings at such time and place as it may by resolution direct, but all regular meetings shall be held within the Borough.

- F. Quorum. Three Councilmen and the Mayor or, in the absence of the Mayor, four Councilmen shall constitute a quorum for transacting business.
- G. Order of business. The following order of business shall be observed at any regular or special meeting:
 - (1) Roll call.
 - (2) Approval of minutes.
 - (3) Greeting of public and invitation for discussion.
 - (4) Presentation of correspondence, petitions.
 - (5) Advertised hearings.
 - (6) Introduction of ordinances.
 - (7) Second and third readings and final disposition of ordinances.
 - (8) Resolutions (consent agenda).
 - (9) Unfinished business.
 - (10) New business.
 - (11) Reports of committees and department heads.
 - (12) Approval of vouchers and payrolls.
 - (13) Adjournment.
- H. Voting.
 - (1) Action by majority vote. All action of the Council shall be by a majority vote of those present, except as otherwise required by statute or specifically provided in this chapter.
 - (2) Roll call vote. A roll call vote shall be taken and the yeas and nays entered in the minutes of the meeting when ordered by the Mayor or upon demand of one member of the Council or when directed by statute.
- I. Consent agenda.
 - (1) The agenda for each regular Council meeting shall contain a section entitled "consent agenda." The consent agenda shall consist of all resolutions and applications not necessary to be read in their entirety at the regular Council meeting, as determined by the Borough Clerk and the Municipal Administrator.

- (2) Items that appear on the consent agenda shall be included in one resolution entitled "resolution authorizing passage of consent agenda." The resolution shall contain the title of all of the resolutions and applications to be considered at the regular Council meeting. It shall only be necessary for the Council to vote on the resolution authorizing the passage of the consent agenda. Any individual member of the Council may, on request, remove any item from the consent agenda and request that it be voted upon separately by the Council.
 - (3) All resolutions adopted as part of the consent agenda shall be filed with the Borough Clerk and entered in the minutes.
- J. Rules of order. The deliberations of the Council shall be governed by Robert's Rules of Order.²

§ 4-4. Mayor. [Amended 5-9-1989 by Ord. No. 13-89]

- A. Presiding officer. The Mayor shall preside at meetings of the Council and may vote to break a tie. The Mayor shall be the head of the municipal government and shall have all those powers designated by general law.
- B. Appointments. The Mayor shall nominate and with the advice and consent of Council, appoint all subordinate officers of the Borough unless the specific terms of the general law clearly require a different appointment procedure. He shall make his nomination to any such office within 30 days of that office becoming vacant. If the Mayor fails to nominate within said 30 days or the Council fails to confirm any nomination made by the Mayor, then after the expiration of said 30 days the Council shall appoint. No appointment of any subordinate officer of the Borough shall be confirmed except by a vote of a majority of the members present at the meeting, provided that at least three affirmative votes shall be required for such purpose, the Mayor voting only in case of a tie.
- C. Duties.
 - (1) Enforcement. The Mayor shall see to it that the laws of the state and the ordinances of the Borough are faithfully executed. He shall recommend to the Council such measures as he may deem necessary or expedient for the welfare of the Borough. He shall maintain peace and good order and have the power to suppress all riots and tumultuous assemblies in the Borough.
 - (2) Maintenance of order and decorum. The Mayor shall at all times maintain the strictest order and proper decorum and shall cause the removal of any person or persons who shall interrupt the orderly proceedings of the Council.
 - (a) Recognition. When two or more Councilmen shall rise simultaneously, the Mayor shall designate the one entitled to the floor, and he alone shall be recognized.

2. Editor's Note: Original Sections 2-4, Committees, and 2-5, Duties of Standing Committees, which immediately followed hereafter, were deleted 6-7-1982 by Ord. No. 82-5.

- (b) Question of order. The Mayor shall decide all questions of order, without debate, subject to an appeal to the Council, and he may call upon the Council for its opinion concerning any question of order.
- (3) Ex officio member of committees. The Mayor shall be an ex officio member of all committees, both standing and special, and shall be informed in advance of all meetings of such committees.
- (4) Liaison duties. The Mayor shall serve as liaison between the Borough Council and all boards, agencies, committees or organizations, except where liaison duties are hereafter assigned to a specific council committee; the Mayor shall serve as liaison between the Borough Council and the trustees of the Butler Library Association.
- (5) Approval of ordinances; veto.
 - (a) Every ordinance adopted by the Council shall, within five days after its passage, Sundays excepted, be presented to the Mayor by the Borough Clerk. The Mayor shall, within 10 days after receiving the ordinance, Sundays excepted, either approve the ordinance by affixing his signature thereto or return it to the Council by delivering it to the Clerk, together with a statement setting forth his objections thereto of any item or part thereof. No ordinance or any item or part thereof shall take effect without the Mayor's approval, unless the Mayor fails to return the ordinance to the Council, as prescribed above, or unless the Council, upon consideration of the ordinance following its return, shall, by a vote of 2/3 of all the members of the Council, resolve to override the veto.
 - (b) No ordinance shall be passed except by a vote of a majority of the members of the Council present at the meeting, provided that at least three affirmative votes shall be required for such purpose, the Mayor voting only in the case of a tie.
 - (c) If any ordinance contains more than one distinct section, clause or item, the Mayor may approve one or more thereof and veto the rest.

§ 4-5. President of the Council. [Added 5-9-1989 by Ord. No. 13-89³]

- A. Duties. The President of the Council shall perform all the duties of the Mayor during any period in which the Mayor is absent from the Borough for three days or more or is unable to perform the duties of his office. Where such absence is intended, the President of the Council shall become the Acting Mayor until the Mayor's return. If the President of the Council is unable to perform the duties of the Acting Mayor, then the member of Council with the longest term of service may act temporarily for the President of the Council.

3. Editor's Note: This ordinance also provided for the numbering of former §§ 4-5 through 4-9 as §§ 4-8 through 4-12, respectively.

- B. Meetings. In the absence of the Mayor, the President of the Council shall preside at any meeting of the Council.

§ 4-6. Committees. [Added 5-9-1989 by Ord. No. 13-89; 2-17-1998 by Ord. No. 1998-2]

- A. Appointment. The Council shall appoint all members of the standing committees by majority vote.
- B. Standing committees. **[Amended 2-19-2002 by Ord. No. 2002-4]**
- (1) At the reorganization meeting, standing committees of the Council, consisting of three Council members each, shall be appointed as follows:
 - (a) Finance, Ordinance and Recreation Committee.
 - (b) Public Safety Committee.
 - (c) Water and Wastewater Committee.
 - (d) Electric Light and Public Lighting Committee.
 - (e) Roads and Buildings/Grounds Committee.
 - (f) Health, Sanitation and Community Development Committee.
 - (2) Membership. Each Councilman shall be chairman of one of the standing committees and shall be a member of at least two other standing committees.
 - (3) Purpose; powers; duties. The purpose of standing committees is to serve as a liaison between the Council and the respective departments of the municipality and be responsible for making policy recommendations to the Council and the Municipal Administrator concerning municipal departments. The standing committee is to expedite and facilitate the work of the Council, but not to interfere with the responsibilities of the Administrator in the general administration of the municipality.
- C. Special committees. Special committees may be appointed by the Council for purposes not included in the duties of the standing committees.
- D. Appointment of Chairman; committee assignments. The Council shall designate one of the appointees as Chairman and shall designate a Vice Chairman to be the successor in case of death, absence, resignation or removal of the Chairman.
- E. Reports. The Chairman of each standing and special committee shall be prepared to report to the Mayor and Council at each regular meeting on the principal activities and achievements of his committee.
- F. Meetings. Meeting of a committee shall be subject to requirements of the Open Public Meetings Act, if applicable. At least two members of the committee must be present to constitute a quorum.

§ 4-7. Duties of standing committees. [Added 5-9-1989 by Ord. No. 13-89; amended 2-17-1998 by Ord. No. 1998-2]

A. Finance, Ordinance and Recreation Committee.

(1) The Finance, Ordinance and Recreation Committee shall be responsible for:

- (a) The presentation of a resolution to the Council at its regular meeting approving vouchers for payment.
- (b) The approval by the Chairman of payrolls and the presentation of a resolution at the regular meeting for their payment.

(2) The Chairman of this Committee shall also serve as liaison between the Council and the Board of Education.

(3) Review of ordinances for recommendations to the Council.

(4) The Chairman of the Committee shall also act as the liaison between the Council and the Recreation Commission.

B. Public Safety Committee. The Public Safety Committee shall be responsible for:

(1) Acting as liaison between the Council and the Police Department.

(2) Acting as liaison between the Council and the Fire Department.

(3) Review and make recommendations with regard to capital expenditures for all departments for which the Committee serves as liaison.

C. Water and Wastewater Committee. The Water and Wastewater Committee shall be responsible for the following:

(1) Acting as liaison between the Council and the operations of the Water Division.

(2) Review and make recommendations concerning the property and reservoir in connection with the operation of the Water Division.

(3) Review and make recommendations to the Council with regard to water rates and all capital expenditures.

(4) Acting as liaison between the Council and the representatives of the municipality serving as members of the Pequannock River Basin Regional Sewage Authority.

(5) Acting as liaison between the Council and Sewer Division operation and sewer plant properties of the municipality.

(6) Review and make recommendations to the Council for all Sewer Division operations, such as capital expenditures, sewerage transmission, hookup and connections and sewer rates.

D. Electric Light and Public Lighting Committee. The Electric Lighting and Public Lighting Committee shall be responsible for:

- (1) Acting as liaison between the Council and the various municipalities served by the division.
 - (2) Acting as liaison between the Council and the various division companies operating within the Borough relating to electricity.
 - (3) Acting as liaison between the Council and the operations of the Electric Division.
 - (4) Review and make recommendations to the Council with regard to electric rates and all capital expenditures.
- E. Roads and Buildings/Grounds Committee. The Roads and Buildings/Grounds Committee shall be responsible for the following: **[Amended 6-19-2007 by Ord. No. 2007-15]**
- (1) Acting as liaison between the Council, the Borough Engineer and Public Works Superintendent.
 - (2) Review and make recommendations to the Council with regard to municipal roads and the maintenance and improvement of all public buildings and grounds.
- F. Health, Sanitation and Community Development Committee. The Health, Sanitation and Community Development Committee shall have responsibility for the following: **[Amended 6-19-2007 by Ord. No. 2007-15]**
- (1) Acting as liaison between the Council and the Board of Health.
 - (2) Review and make recommendations to the Council with regard to garbage and refuse collection and recycling.
 - (3) The pursuit and promotion of community growth.
 - (4) Patriotic or other celebrations financed wholly or in part by public funds.

§ 4-8. Borough Clerk.

- A. Appointment. There shall be a Clerk of the Borough of Butler appointed by the Mayor with the advice and consent of the Council for a term of three years. The term shall run from January 1 of the year in which he is appointed. Prior to his appointment, the Borough Clerk shall be qualified by training and experience to perform the duties of his office. **[Amended 4-21-1987 by Ord. No. 4-87]**
- B. Clerk of Council and committees. The Borough Clerk shall serve as Clerk of the Council and as secretary of any special legislative committees of the Council. He shall attend all meetings of the Council and of such committees when required by the Chairman and shall keep the minutes of the meetings of the Council and of such committees. The minutes of each meeting of the Council shall be signed by the officer presiding at the meeting and by the Clerk.
- C. Ordinances and resolutions.
- (1) The Clerk shall record all ordinances in books to be provided for that purpose. After each ordinance, he shall also record and certify the proof of publication

thereof as required by law. Each ordinance so recorded shall be signed by the Mayor and the Clerk, who shall attest that it was duly adopted upon a date stated, and, when so signed, the recorded copy shall be deemed to be a public record of the ordinance. Any omission by the Clerk or the Mayor to record, sign or certify as herein required shall not impair or affect the validity of any ordinance which has been duly adopted.

- (2) At the close of each year, the Clerk, with the advice and assistance of the Borough Attorney, shall bind, compile or codify all the ordinances, or true copies thereof, which then remain in force and effect. He shall also properly index the record books, compilation or codification of ordinances.
- D. Custodian of records. The Clerk shall have custody of and shall safely keep all records, books and documents of the Borough, except those committed by ordinance to any other office or transferred thereto by the Mayor and Council. He shall, upon request and upon the payment of the fees prescribed therefor by resolution of the Council for the use of the Borough, furnish a certified copy of any such paper in his custody under the Corporate Seal of the Borough.
- E. Corporate Seal.
- (1) Use of Seal. The Clerk shall cause the Corporate Seal of the Borough to be affixed to instruments and writings when authorized by ordinance or resolution of the Council or when necessary to exemplify any document on record in his office, or to certify any act or paper which from the records in his office shall appear to have been a public act of the Borough or a public document. He shall not affix the seal or cause or permit it to be affixed to any other instrument, writing or other paper unless required by law or ordinance.
 - (2) Description of Seal. The Seal of the Borough of Butler shall be circular in form and shall contain the following: in the center the letter "B" circumscribed by the wording, "Borough of Butler, Morris Co., N.J., Incorporated March 13, 1901."
- F. Insurance; surety bonds; contracts. The Clerk, subject to the supervision of the Mayor and Council, shall:
- (1) Be the depository and custodian of all official surety bonds furnished by or on account of any officer or employee, except his own bond, which bond shall be placed in the custody of the Treasurer; of all insurance policies upon or with respect to risks insured for the benefit of the Borough or to protect it against any claim, demand or liability whatsoever; and all formal contracts for work, labor, services, supplies, equipment and materials to which the municipality may be a party.
 - (2) Be the depository for and have custody of all performance bonds running to the Borough as obligee, or any other form of security given by any contractor, subdivision developer or other persons on account of work done or to be done in or for the Borough.
 - (3) Have custody of all leases of property owned by the Borough.

- (4) Report to the Borough Council annually, at such time as the Council may require on the coverage, expiration date and premium of each surety bond and contract of insurance, the nature and terms of outstanding leases, the rent reserved by each and their respective expiration dates.
- G. Other laws and ordinances. In addition to such other functions, powers and duties as may be prescribed by ordinance and subject to the supervision and direction of the Mayor and Borough Council, the Clerk shall:
- (1) Perform all of the functions required of municipal clerks by the General Election Law (Title 19 of the Revised Statutes) and any other law or ordinance.
 - (2) Administer the provisions of Borough ordinances with reference to the licensing of occupations and activities for which licenses are required by law or ordinance to be obtained from the Clerk.
 - (3) Have such other, different and additional functions, powers and duties as may be prescribed by law or ordinance or delegated to him by the Mayor and Borough Council.
- H. Registrar of real property. The Clerk shall maintain a record of all real property which the Borough may acquire, sell or lease. The records shall be in such form and contain such information as the Division of Local Finance in the Community Affairs of the State of New Jersey shall prescribe. It shall be available for inspection in the office of the Clerk.

§ 4-8.1. Borough Deputy Clerk. [Added 4-21-1987 by Ord. No. 4-87]

- A. Appointment. There shall be a Deputy Clerk of the Borough of Butler appointed by the Mayor with the advice and consent of the Council for a term of three years. The term shall run from January 1 of the year in which he is appointed. Prior to his appointment, the Borough Deputy Clerk shall be qualified by training and experience to perform the duties of his office.
- B. Clerk of Council and committees. During the absence or disability of the Borough Clerk, the Borough Deputy Clerk shall serve as Clerk of the Council and as Secretary of any special legislative committees of the Council. He shall, during the absence or disability of the Borough Clerk, have the same duties and responsibilities as enumerated in § 4-8 of this chapter.

§ 4-9. Municipal Administrator. [Added 2-21-1978 by Ord. No. 78-1]

- A. Position created. The position of Municipal Administrator of the Borough of Butler is hereby created, and the employment of a person to fill such position on a temporary or permanent basis is hereby authorized.
- B. Appointment. The Municipal Administrator shall be appointed by the Mayor with the advice and consent of the Council. The Mayor shall make such appointment within 30 days after the office becomes vacant. If the Mayor fails to make such appointment within

said 30 days, or the Council fails to confirm any appointment made by the Mayor, then after the expiration of said 30 days, the Council shall appoint said Municipal Administrator.

- C. Once appointed, the Municipal Administrator shall serve at the pleasure of the governing body except that the Administrator may be removed in accordance with Subsection D below. **[Amended 10-1-1979 by Ord. No. 79-16; 8-21-1984 by Ord. No. 14-84]**
- D. The Municipal Administrator may be removed by a two-thirds vote of the governing body. The resolution shall become effective a minimum of three months after its adoption by the governing body. The governing body may provide that the resolution shall have immediate effect; provided, however, that the governing body shall cause to be paid to the Municipal Administrator forthwith any unpaid balance of his salary that has been earned to the date the resolution was adopted and his salary for the length of time specified in the resolution adopted causing the removal. **[Amended 8-21-1984 by Ord. No. 14-84]**
- E. Vacation. The Municipal Administrator shall be granted an annual leave as follows:
- (1) Up to one year of service, one working days' vacation for each month of service.
 - (2) After one year and up to 10 years of service, 12 working days' vacation.
 - (3) After 10 years and up to 20 years of service, 15 working days' vacation.
 - (4) After 20 years of service, 20 working days' vacation.
- F. Compensation. The Municipal Administrator shall receive as his salary such sums as may be fixed and adopted by the Salary Ordinance of the Borough of Butler.⁴
- G. Qualifications.
- (1) The Municipal Administrator shall be chosen on the basis of executive and administrative abilities and qualifications, with special regard to the areas of accounting, finance, education, training and experience in governmental affairs.
 - (2) The Administrator need not be a resident of the Borough nor shall he be required to be a resident, provided that he maintains accessibility on evenings and weekends in order to deal with emergency situations. **[Amended 8-21-1984 by Ord. No. 14-84]**
- H. Powers and duties. The Municipal Administrator shall:
- (1) Attend all meetings of the Mayor and Council with the right to take part in discussions but without the right to vote. **[Amended 8-21-1984 by Ord. No. 14-84]**
 - (2) Provide a liaison between the Mayor and Council and the various boards, commissions and consultants of the Borough of Butler. **[Amended 8-21-1984 by Ord. No. 14-84]**

4. Editor's Note: See Ch. [47, Salaries and Compensation](#).

- (3) Keep the Mayor and Council currently informed on all matters assigned to him or otherwise within his jurisdiction.
- (4) Supervise and direct the administration of all departments and offices of the Borough, with all department heads reporting directly to the Administrator. **[Amended 8-21-1984 by Ord. No. 14-84]**
- (5) Make studies and surveys of such municipal problems of the Borough of Butler as shall be assigned to him from time to time by the Mayor and Council, and prepare and submit written reports of his findings and determinations to the Mayor and Council for their consideration and action.
- (6) Study continually present and future budgets, purchasing procedures, administrative procedures and personnel organization and policies, and make such recommendations to the Mayor and Council relating thereto as he shall deem necessary from time to time.
- (7) Be responsible for continually improving communications between the various Borough personnel, departments, agencies, boards, and the Mayor and Council.
- (8) See that all terms and conditions imposed in favor of the Borough or its inhabitants in any statute or contract are faithfully kept and performed, and upon knowledge of any violation, call the same to the attention of the Borough Council.
- (9) Serve as the Personnel Officer of the Borough and as such hire and promote employees and, when he deems necessary, institute disciplinary action, including but not limited to suspension, demotion and discharge based upon the recommendation of the respective department head. It shall be the Administrator's responsibility to notify 2/3 of the governing body within 24 hours of exercising his power concerning personnel. **[Amended 8-21-1984 by Ord. No. 14-84]**
- (10) Continually review and supervise the Borough's insurance program.
- (11) Be responsible for the overall supervision and maintenance of real property owned by the Borough of Butler.
- (12) Act as liaison between the Borough of Butler and the various County, state and federal agencies with respect to all applications for funds and/or services needed or required by the Borough of Butler.
- (13) Review daily any complaints concerning the functions and obligations of the Borough of Butler made by any of its residents, and he shall have a permanent record of all complaints and the disposition made.
- (14) Make any recommendations which he may believe will increase the efficiency of the operation of the Borough of Butler.
- (15) Prepare and present to the Mayor and Council a quarterly report of the Borough affairs, which shall include a report from each department head.
- (16) Prepare and administer the municipal budget. Obtain from each department, committee, board, commission, agency or officer of the Borough information

necessary for the preparation of the annual budget. **[Amended 8-21-1984 by Ord. No. 14-84]**

- (17) All materials, supplies and equipment or work under contract for the Borough shall be purchased under the direction and supervision of the Borough Administrator. **[Amended 8-21-1984 by Ord. No. 14-84]**
- (18) Also perform such other duties as may be assigned to him from time to time by the Mayor and Council.
- I. Bond. The Municipal Administrator shall furnish a surety bond to be approved by the Mayor and Council, said bond to be conditioned upon the faithful performance of his duties. The premium of said bond shall be paid by the Borough.
- J. The Borough Administrator shall not engage in any organized political campaigns within the Borough of Butler or have any interest, direct or indirect, in any contract, subcontract or job for work, materials or services or the profit thereof to be furnished to or performed for the Borough. **[Added 8-21-1984 by Ord. No. 14-84]**

§ 4-10. Administrative Analyst. [Added 3-2-1981 by Ord. No. 81-3⁵]

- A. Establishment of position. There is hereby established the position of Administrative Analyst in the Borough of Butler.
- B. Term. The term of the position of Administrative Analyst for the Borough of Butler shall be for one year, but such term shall expire on December 31 of each year, whether or not the position has been filled for the entire year.
- C. Appointment. The position of Administrative Analyst shall be filled by appointment by the Mayor and Borough Council of the Borough of Butler by a duly adopted resolution.
- D. Duties. The Administrative Analyst shall prepare on a routine basis cost allocation studies for the various functions and departments maintained by the Borough. The Administrative Analyst shall implement an inventory control program in connection with all the Borough's operating assets, shall perform system studies and shall perform such other duties as assigned by the Borough Administrator.
- E. Salary. The Administrative Analyst shall receive such compensation as is authorized in the yearly Salary Ordinance and resolution adopted by the Mayor and Borough Council of the Borough of Butler.⁶

§ 4-11. Borough Attorney.

- A. Appointment. The Borough Attorney shall be appointed by the Mayor with the advice and consent of the Council for a term of one year. He shall be an attorney at law of New

5. Editor's Note: Section 6 of this ordinance provided for the repeal of original Section 2-10, Purchasing Agent.

6. Editor's Note: See [Ch. 47, Salaries and Compensation.](#)

Jersey but need not be a resident of the Borough. The Attorney shall receive a retainer and shall in addition be paid such fees and charges as shall be deemed reasonable.

- B. Powers and duties. The Attorney shall have such powers and perform such duties as are provided for the office of Borough Attorney by general law or ordinances of the Borough. He shall represent the Borough in all judicial and administrative proceedings in which the municipality or any of its officers or agencies may be a party or have an interest. He shall give all legal counsel and advice where required by the Council or any member thereof, and shall in general serve as the legal advisor to the Council on all matters of Borough business. In furtherance of such general powers and duties, but without limitation thereto, the Borough Attorney shall:
- (1) Draft or approve as to form and sufficiency all legal documents, contracts, deeds, ordinances and resolutions made, executed or adopted by or on behalf of the Borough.
 - (2) With the approval of the Council, conduct appeals from orders, decisions or judgments affecting any interest of the Borough as he may in his discretion determine to be necessary or desirable or as directed by the Mayor and Council.
 - (3) Subject to the approval of the Borough Council, have power to enter into any agreement, compromise or settlement of any litigation in which the Borough is involved.
 - (4) Render opinions in writing upon any question of law submitted to him by the Council or any member thereof with respect to their official powers and duties, and perform such duties as may be necessary to provide legal counsel to the Council in the administration of municipal affairs.
 - (5) Supervise and direct the work of such additional attorneys and technical and professional assistants as the Council may authorize for special or regular employment in or for the Borough.⁷

§ 4-12. Borough Engineer.

- A. Established. There is hereby established the position of Borough Engineer.
- B. Appointment; term. The Borough Engineer shall be appointed by the Mayor with the approval of the Council for a term of one year. The Borough Engineer shall receive such compensation as may be agreed upon and determined by the Council. He shall be a duly licensed professional engineer of the State of New Jersey.
- C. Duties. The Borough Engineer shall perform such duties as are prescribed by general law and ordinance, and in addition shall:

7. Editor's Note: Original Section 2-14, Building Inspector, which immediately followed hereafter, was superseded 3-15-1977 by Ord. No. 77-7.

- (1) Prepare, or cause to be prepared, plans, designs and specifications for public works and improvements undertaken by the Borough, either on force account or by public contract.
- (2) Provide and maintain surveys, maps, plans, specifications and control records with respect to public works and facilities owned or operated by the Borough.
- (3) Operate, maintain and repair the Borough storm sewer system.
- (4) Provide technical and engineering advice and assistance to all Borough departments as needed; provided, however, that he shall be under the general supervision of the Council Committee of the Division of Public Works.
- (5) All papers, documents, memoranda, reports and other materials relating to the administration of engineering duties of the Borough Engineer shall be and remain the property of the Borough. Upon the termination of his service with the Borough, the Borough Engineer shall forthwith surrender to any successor all such property. The Borough Engineer shall also act as assessment search officer of the Borough.

Chapter 5

ALTERNATIVE ENERGY

- § 5-1. Definitions.**
- § 5-2. Purpose.**
- § 5-3. Permit Requirements.**
- § 5-4. Installation Requirements.**

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 6-19-2012 by Ord. No. 2012-3. Amendments noted where applicable.]

§ 5-1. Definitions.

Solar energy system- a solar energy system and all associated equipment which converts solar energy into usable electrical energy, heats water or produces hot air or other similar function through the use of solar panels.

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

§ 5-2. Purpose.

The purpose of this section is to establish requirements for the installation of solar panels within the Borough of Butler.

§ 5-3. Permit Requirements.

- A. Before any solar panel may be installed, plans for such installation shall be submitted to the Butler Building Department and Butler Fire Department officials. No solar panel shall be installed without a permit issued by the Borough.
- B. The design of the solar panel system shall conform to all applicable industry standards including the New Jersey Uniform Construction Code, the National Electric Code and the Butler Building Code and Zoning Regulations. The applicant shall submit certificates of design compliance obtained by the equipment manufacturer from a certified organization and any such design shall be certified by an Engineer registered in the State of New Jersey. The manufacturer specifications shall be submitted as part of the application.

§ 5-4. Installation Requirements.

- (i) Solar panels shall be permitted as a rooftop installation in any zoning district. A roof-mounted system may be mounted on a principal building or accessory building.
- (ii) Roof-mounted solar panels shall be mounted parallel to the roof angle and shall not exceed a height of 12 inches above the rooftop.

- (iii) A roof-mounted solar panel that is mounted on a flat roof may be angled to achieve maximum sun exposure but shall not exceed 5 feet above the roof. No such mounted solar panel shall exceed the maximum permitted height of the structure.
- (iv) All roof-mounted panels shall be installed at least 3 feet from the roof edges.
- (v) Roof mounted solar panels shall not be permitted on the front roof of a structure which faces a street, except as permitted below. This requirement shall also apply to the side street of a corner lot. Solar panels shall be located on a rear-or-side-facing roof, as viewed from any adjacent street, unless such installation is proven to be ineffective or impossible. The removal of potential obstructions such as interceding vegetation shall not be sufficient cause for permitting a front-facing installation. Front-facing installation may be permitted in accordance with the following provisions:
- (a) Applicant must present valid reasons to the building official as to why a front roof is the only effective or possible means for utilizing solar energy on the property. Such information shall be certified by a professional deemed qualified by the Building Department and reviewed by the Borough Engineer and any other Professional that the Borough deems necessary; and
 - (b) Solar panels must be flush mounted to the roof.
 - (c) An applicant may appeal a denial of the Building Department to allow solar panels on a front roof to the Zoning Board of Adjustment.
- (vi) Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties, businesses, residential homes or roadways.
- (vii) All exterior electrical lines must be painted a color scheme that matches as closely as reasonably possible the color of the structure and adjacent materials.
- (viii) An external disconnect switch, which is clearly identified and unobstructed, shall be provided.
- (ix) Signage identifying the use of solar panels shall be posted at an easily visible location. The signage shall clearly state the name, address and telephone number of the vendor authorized to deactivate the solar panel system in the case of an emergency.
- (x) In addition to the required signage, property owners shall provide the Borough Fire Official with a map illustrating the location of the disconnect switch, as well as any information regarding the vendor authorized to deactivate the solar panel.
- (xi) Marking is required on all interior and exterior direct conduit, raceway, enclosures, cable assemblies and junction boxes to alert the Fire Service to avoid cutting them.
- (xii) Ground mounted solar energy systems shall not be located in the front or side yards and shall have side and rear yard set backs of no less than 20 feet. No part of the ground mounted solar energy system shall exceed 7 feet in height.

Chapter 6

AMERICANS WITH DISABILITIES ACT COMPLIANCE COMMITTEE

§ 6-1. Purpose.

§ 6-2. Americans with Disabilities Act Coordinator.

§ 6-3. Americans with Disabilities Act Compliance Committee.

§ 6-4. Grievance procedure.

§ 6-5. Maintenance of records.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 6-16-1992 by Ord. No. 1992-11. Amendments noted where applicable.]

§ 6-1. Purpose.

It is the intent of this chapter to establish an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the United States Department of Justice regulations implementing Title II of the Americans with Disabilities Act (hereinafter "ADA"). Title II states in part that "no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from the participation in, be denied the benefits of or be subjected to discrimination" in programs or activities sponsored by the Borough of Butler.

§ 6-2. Americans with Disabilities Act Coordinator.

- A. There is hereby established the position of ADA Coordinator, who shall be a Borough employee appointed by the Mayor and who shall serve in that capacity for the term of the Mayor or until such time as the employee terminates his employment with the Borough.
- B. The ADA Coordinator shall receive no additional compensation.

§ 6-3. Americans with Disabilities Act Compliance Committee.

- A. There is hereby established an ADA Compliance Committee, which shall be composed of the Borough Administrator, the Borough Construction Official, one representative from the medical profession and two Borough residents to be appointed by the Mayor.
 - (1) The Borough employees shall be permanent members of the ADA Compliance Committee.
 - (2) Initially, one member shall be appointed for a term of one year; one member shall be appointed for a term of two years; and one member shall be appointed for a term of three years. Thereafter, the members shall be appointed for three-year terms.

- B. The ADA Compliance Committee shall establish rules and procedures for hearing complaints, requests or suggestions from disabled persons regarding access to and participation in public facilities, services, activities and functions in the community.

§ 6-4. Grievance procedure.

Any person aggrieved by an alleged action done in violation of the provisions of the Americans with Disabilities Act shall be entitled to pursue the following procedures:

- A. A complaint regarding access, alleged discrimination or a violation of the ADA shall be submitted, in writing, to the ADA Coordinator.
- B. The complaint shall be filed within 180 days from the date of the alleged discrimination or violation. The time for filing the complaint may be extended for a period of 30 days for good cause.
- C. The ADA Coordinator shall conduct an investigation and render a written decision within 15 working days of the filing of the complaint. A copy of the decision shall be forwarded to the complainant.
- D. In the event that the complaint cannot be resolved by the ADA Coordinator to the satisfaction of the complainant, the complaint shall be forwarded to the ADA Compliance Committee.
- E. After notifying the complainant by certified mail, the ADA Compliance Committee shall conduct a public hearing, at which time the complainant may voice his objections to the decision of the ADA Coordinator. The proceedings shall be recorded and the tape of the proceeding maintained for a period of one year.
- F. In the event that the complainant is not satisfied with the decision of the ADA Compliance Committee, he or she may appeal the decision to the Borough Council of the Borough of Butler.
- G. The Borough Council of the Borough of Butler shall render its decision within 30 days of the hearing, which decision shall be final as to administrative remedies available at the municipal level. Nothing contained herein shall limit or restrict an individual's right to pursue other remedies. The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies such as the filing of an ADA complaint with the responsible federal department or agency. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

§ 6-5. Maintenance of records.

The ADA Coordinator shall maintain the files and records of all complaints filed and the hearings held.

Chapter 7
(RESERVED)

[Former Ch. 7, Assessors, Board of, adopted as Section 2-9 of the Revised General Ordinances of 1976, was repealed 1-17-1995 by Ord. No. 1994-26.]

Chapter 9

BOARDS, AGENCIES AND COMMISSIONS

ARTICLE I

Attendance at Meetings

§ 9-1. Absences limited; termination of membership for noncompliance.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

[Board of Health — See Ch. 25.](#)

[Board of Recreation Commissioners — See Ch. 44.](#)

ARTICLE I

Attendance at Meetings

[Adopted 11-1-1982 by Ord. No. 12-82]

§ 9-1. Absences limited; termination of membership for noncompliance.

Any member of any board, agency or commission of the Borough of Butler, who was appointed to same by either the Mayor, the Mayor with concurrence of the Borough Council, or the Mayor and Council, who shall be absent for more than 25% of the regularly scheduled meetings of said board, agency or commission during any calendar year, and whose absence shall not have been excused by the chairman or president of the said board, agency or commission, shall be deemed to have failed to perform his duties; and his or her membership on the said board, agency or commission shall be deemed terminated and vacant; and the Mayor or the Mayor and Council, as provided by law, may appoint a replacement for the unexpired term.

Chapter 10

CASHIER, SUPERVISING

§ 10-1. Establishment.

§ 10-2. Duties.

§ 10-3. Qualifications.

§ 10-4. Appointment.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 3-19-1985 by Ord. No. 85-5. Amendments noted where applicable.]

§ 10-1. Establishment.

The position of Supervising Cashier is hereby established.

§ 10-2. Duties.

The duties of the position of Supervising Cashier are to supervise and work with a small group of employees engaged in cashiering and related clerical work.

§ 10-3. Qualifications.

The qualifications for one to be appointed to the position of Supervising Cashier are as follows:

- A. Experience. Four years of experience in the receipt, disbursement, deposit, custody or other clerical processing of money, one year of which shall have been in a supervisory capacity.
- B. Knowledge.
 - (1) Thorough knowledge of the problems involved in making and executing plans for the effective utilization of personnel, equipment, materials, supplies and funds.
 - (2) Thorough knowledge of the problems, methods and procedures used in preparing and endorsing checks and drafts, in keeping records of cash receipts and printouts and in preparing daily balances of accounts and in the establishment and maintenance of needed records and files.
- B. Ability.
 - (1) Ability to read, write, speak, understand or communicate in English sufficiently to perform the duties of the position. Communication may include such forms as American Sign Language or braille.
 - (2) Ability to analyze, identify and design solutions to cashiering problems.
 - (3) Ability to motivate, train and work effectively with subordinates who have a variety of backgrounds and training.

- (4) Ability to accomplish the quality and quantity of work expected within set limits of cost and time.
- (5) Ability to give suitable assignments to individuals and groups.
- (6) Ability to plan own work and carry out assignments effectively.
- (7) Ability to communicate with others effectively, both orally and in writing, in working out solutions to problems or questions relating to work.
- (8) Ability to understand and further management goals as these affect day-to-day work operations.
- (9) Ability to develop improvements in or design new work methods and procedures. (10) Ability to take a leading part in making varied, highly complex arithmetical computations and in the establishment and maintenance of needed records and files.

§ 10-4. Appointment.

The position of Supervising Cashier shall be filled by an appointment of the Borough Council upon the recommendation of the Mayor.

Chapter 12

CLAIMS

ARTICLE I

Claims, Bills and Vouchers

§ 12-1. Presentation.

§ 12-2. Approval by department head.

§ 12-3. Approval by Administrator.

§ 12-4. Presentation to Mayor and Council.

§ 12-5. Approval or disapproval by Mayor and Council.

§ 12-5.1. Disapproved claims.

§ 12-5.2. Approval of other claims.

ARTICLE II

Method of Approval and Payment

§ 12-6. Certain purchase orders not to be issued.

§ 12-7. Signature required.

§ 12-8. Presentation of claim to chairman; approval; filing.

§ 12-9. Consideration by governing body; disapproval.

§ 12-10. Recording.

§ 12-11. Duty of Administrator to indicate approval.

§ 12-12. Treasurer to prepare checks; recording; distributing.

§ 12-13. Payrolls.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

[Salaries and compensation — See Ch. 47.](#)

ARTICLE I

Claims, Bills and Vouchers

[Adopted 6-1-1981 by Ord. No. 10-81¹]

§ 12-1. Presentation.

Any person claiming payment from the Borough of Butler for other than a payroll account shall present a voucher (as prescribed by the Borough) accompanied by a company bill specifying material or service provided to the Borough duly certified as supported by a certification and declaration of the claimant. In the case of reimbursement for actual and necessary traveling expenses, itemized claims supported by receipts, where available, shall be presented in order to obtain reimbursement for expenses incurred by local officials where authorized by the Borough.

1. Editor's Note: This ordinance also superseded former Article I, Claims, Bills and Vouchers, adopted as Section 2-8 of the Revised General Ordinances of 1976.

§ 12-2. Approval by department head.

Claims shall then be presented to the appropriate department head who shall approve them if he is satisfied the claims are proper, materials have been received or services were rendered. After such approval is given, the department head shall file the claims with the Borough Administrator.

§ 12-3. Approval by Administrator.

The Borough Administrator shall approve all vouchers for submission to the Mayor and Council. The Administrator shall assure all necessary certifications are present, that there are proper and sufficient appropriations and that there is legal authority for the payments. All approved vouchers will be submitted to the Mayor and Council in the form of a bill list indicating the company, purchase order number, amount of voucher, description of service and department charged.

§ 12-4. Presentation to Mayor and Council.

The bill list shall be presented to the Mayor and Council with the agenda material for each regular meeting.

§ 12-5. Approval or disapproval by Mayor and Council.

The Mayor and Council shall review the presented list and withhold action on any claim, which is felt to require further study. The Mayor and Council shall authorize the payment of the remaining claims on the list by passage of a resolution.

§ 12-5.1. Disapproved claims.

Any disapproved claim may be referred back to the Borough Administrator with such instructions as the Mayor and Council may give at the time of removal from the list.

§ 12-5.2. Approval of other claims.

The Mayor and Council may, by motion at the regular meeting, consider any claims not included on the supplied list and may authorize payment of such claims by resolution.

ARTICLE II**Method of Approval and Payment
[Adopted 2-20-1979 by Ord. No. 79-2]****§ 12-6. Certain purchase orders not to be issued.**

The purchasing agent for the Borough of Butler shall issue no purchase order for services or materials for which there are no moneys unencumbered in the Borough's municipal budget or the budget for its utilities at the time said purchase order is issued.

§ 12-7. Signature required.

It shall be the duty of the Administrator to see that the signature of the officer or employee, who has been duly designated by the local unit to certify that the materials have been received by or the services rendered to the local unit, appears on every claim.

§ 12-8. Presentation of claim to chairman; approval; filing.

Claims shall then be presented to the chairman of the committee responsible for the placing of the order who, if satisfied the claims are proper, shall approve the same. After such approval is given, the chairman shall file the claim with the Borough Administrator who shall then present these claims to the governing body for formal approval at a regular meeting.

§ 12-9. Consideration by governing body; disapproval.

Claims shall be considered by the governing body which shall approve the same, except that said governing body may reject any claim presented to it stating the reason for such rejection. Any disapproved claim shall be referred back to the Borough Administrator with such instructions as the governing body may give at the time of disapproval.

§ 12-10. Recording.

It shall be the duty of the Borough Administrator to record all claims in the official minutes indicating that the governing body has by formal action approved the same with appropriate record as to any claims disapproved or rejected.

§ 12-11. Duty of Administrator to indicate approval.

It shall be the duty of the Borough Administrator or such other officer designated by resolution of the governing body, to indicate on said claims that they have been approved for payment, with the date of approval thereof noted on the claim.

§ 12-12. Treasurer to prepare checks; recording; distributing.

After the Borough Administrator has certified that the claims have been approved, he shall turn the same over to the Treasurer who shall forthwith prepare the necessary checks for the payment thereof, which then said checks shall be signed by the Mayor and the Borough Administrator and thereafter countersigned by the Treasurer. After preparing checks for the payment of claims, he shall record them in proper books of account and thereafter mail or otherwise distribute the checks to claimants.

§ 12-13. Payrolls.

In the case of payrolls, the Treasurer shall prepare the necessary payrolls for all employees, which payrolls shall be duly certified by the person authorized to certify that the services have been rendered and the amount specified is in fact due and owing to the employee or

employees. Said payroll shall then be approved by the department head responsible therefor and presented to the governing body for approval and, after approval, shall be paid in due course.

Chapter 16

COURT, MUNICIPAL

§ 16-1. Establishment.

§ 16-2. Judge.

§ 16-3. Designation of temporary replacement Judge.

§ 16-4. Powers of Municipal Judge.

§ 16-5. Municipal Court Prosecutor.

§ 16-6. Municipal Court Public Defender; application fee.

§ 16-7. Court Administrator; clerical assistance; accommodation; Seal.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 10-13-1992 by Ord. No. 1992-16.¹ Amendments noted where applicable.]

§ 16-1. Establishment.

There is hereby established in and for the Borough of Butler a Municipal Court, pursuant to N.J.S.A. 2A:8-1 et seq.² The name of this court shall be the "Municipal Court of the Borough of Butler in the County of Morris," and it shall have such civil and criminal jurisdiction as provided by law.

§ 16-2. Judge.

The Municipal Court shall have a Judge who shall have such qualifications as may be provided by law. The Municipal Judge shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of three years from the date of his or her appointment, until his or her successor is appointed and qualifies. The Judge shall, before entering upon the duties of his or her office, take and subscribe an oath as provided by law. His or her salary shall be payable in monthly installments or as the Borough Council may, from time to time, determine and shall be in lieu of any and all fees and costs.

§ 16-3. Designation of temporary replacement Judge.

Whenever the Municipal Judge shall be unable to sit, he or she may designate any other Municipal Judge or an attorney at law to sit for him or her temporarily and hold Municipal Court, provided that any such designation shall be made in writing and shall be filed in the Court and that such person so designated, while sitting temporarily, shall have all the powers of the Judge of the Court.

1. Editor's Note: This ordinance superseded former Ch. 16, Court, Municipal, adopted as Section 2-16 of the Revised General Ordinances of 1976.

2. Editor's Note: N.J.S.A. 2A:8-1 et seq. was repealed by L. 1993, c. 293. See now N.J.S.A. 2B:12-1 et seq.

§ 16-4. Powers of Municipal Judge.

The duties, powers and jurisdiction of the Municipal Court and the Judge thereof shall, from time to time, be prescribed or established by law and the rules of the Supreme Court of New Jersey and shall at all times be subject to any provisions of law and the rules of the Supreme Court of New Jersey effecting the duties, powers and jurisdictions of the Court or the Judge thereof.

§ 16-5. Municipal Court Prosecutor. [Amended 3-18-1997 by Ord. No. 1997-4]

An attorney at law of the State of New Jersey shall be appointed Municipal Court Prosecutor, under the supervision of the Attorney General or County Prosecutor, who may represent the state, county or municipality in any matter within the jurisdiction of the Borough of Butler Municipal Court pursuant to P.L. 1996, c. 95, § 14.³ Municipal Court Prosecutor shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of one year from the date of his or her appointment until his or her successor is appointed and qualifies.

§ 16-6. Municipal Court Public Defender; application fee. [Amended 9-13-1994 by Ord. No. 1994-12; 4-21-1998 by Ord. No. 1998-6]

- A. An attorney at law of the State of New Jersey shall be appointed to act as Municipal Court Public Defender. The Municipal Court Public Defender shall be appointed by the Mayor, with the advice and consent of the Borough Council, and shall serve for a term of one year from the date of his or her appointment until a successor is appointed and qualified.
- B. A person applying for representation by a Municipal Public Defender shall pay an application fee of \$200. The application fee may be waived by a Municipal Court Judge. The Municipal Court Judge may allow the fee to be paid over a four-month period where appropriate. The funds collected as application fees shall be turned over to the Chief Financial Officer to be deposited in a dedicated fund to cover the costs incurred in providing a Municipal Public Defender.

§ 16-7. Court Administrator; clerical assistance; accommodation; Seal.

- A. The Borough Council may, by resolution, provide for a Court Administrator and such other necessary clerical and other assistance as it may deem necessary.
- B. Accommodations for the Court shall be provided by the Council.
- C. A Court Seal as required by law, as well as other necessary supplies, shall be provided by the Borough Council.

3. Editor's Note: See N.J.S.A. 2B:12-27.

Chapter 18

Economic Development Committee

§ 18-1. Creation; name.

§ 18-2. Mission.

§ 18-3. Composition.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 12-17-2013 by Ord. No. 2013-19. Amendments noted where applicable.]

§ 18-1. Establishment.

An Economic Development Committee is hereby created and shall be known as the "Economic Development Committee of the Borough of Butler."

§ 18-2. Mission.

The focus of the Committee is to foster, develop, and implement an economic plan that attracts merchants of all sizes to establish or move their business into Butler. The Committee's mission is to attract strong enterprises that will enhance the rich and diverse business mix already existing and to promote occupancy of existing vacancies as well as work together to revitalize existing properties to assist in enhancing current tax rates.

The Economic Development Committee will also be available to assist with new applications and/or inquiries for commercial/industrial development; to foster a friendly and cooperative business environment; to promote an economically diverse environment; and to help realize a desirable economic future for the Borough of Butler.

§ 18-3. Composition. [Amended 12-15-2015 by Ord. No. 2015-16]

The Economic Development Committee shall be comprised of seven (7) members and two (2) alternates to be appointed by the Borough Council. Two (2) members shall also be members of the Borough Council. Two (2) members shall be residents of the Borough of Butler. Two (2) members shall be business owners from the Borough of Butler, and one (1) member shall be a senior citizen who is also a resident of the Borough of Butler. The alternates shall be residents of the Borough of Butler. Members shall serve without compensation for a term of two (2) years.

FINANCE DEPARTMENT

ARTICLE I

Establishment; Chief Financial Officer

- § 20-1. Establishment of Department; Chief Financial Officer.
- § 20-2. Powers and duties.
- § 20-3. Qualifications.
- § 20-4. Appointment and term.
- § 20-5. Tenure.
- § 20-6. Compensation.

ARTICLE II

Division of Tax Assessments

- § 20-7. Establishment; Borough Tax Assessor.
- § 20-8. Powers and duties of Assessor.
- § 20-9. Qualifications of Assessor.
- § 20-10. Appointment and term of Assessor.
- § 20-11. Tenure of Assessor.
- § 20-12. Compensation of Assessor.

ARTICLE III

Division of Tax Collections

- § 20-13. Establishment; Borough Tax Collector.
- § 20-14. Powers and duties of Collector.
- § 20-15. Qualifications of Collector.
- § 20-16. Appointment and term of Collector.
- § 20-17. Tenure of Collector.
- § 20-18. Compensation of Collector.
- § 20-19. Establishment; Purchasing Agent.
- § 20-20. Powers and Duties.
- § 20-21. Qualifications of Purchasing Agent.
- § 20-22. Appointment and Term of Purchasing Agent.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 4-11-1989 by Ord. No. 10-89. Amendments noted where applicable.]

GENERAL REFERENCES

[Claims — See Ch. 12.](#)

[Taxation — See Ch. 210.](#)

ARTICLE I
Establishment; Chief Financial Officer

§ 20-1. Establishment of Department; Chief Financial Officer.

There is hereby established the Department of Finance, the head of which shall be the Chief Financial Officer.

§ 20-2. Powers and duties.

The Chief Financial Officer shall perform all of the duties formerly performed by the Borough Treasurer and as provided by law and such additional duties as determined by the Mayor and Council.

20-3.

Qualifications.

Commencing January 1, 1991, no person shall be appointed or reappointed as Chief Financial Officer unless said person holds a municipal finance officer certificate issued pursuant to P.L. 1971, c. 413 (N.J.S.A. 40A:9-140.2) or P.L. 1988, c. 110.¹ The Chief Financial Officer need not be a resident of the Borough of Butler.

§ 20-4. Appointment and term.

The Chief Financial Officer shall be appointed by the nomination of the Mayor with the advice and consent of the Council and shall hold office for a term of one year from the first day of January next following the appointment. If a vacancy occurs in the position of Chief Financial Officer, the Mayor and Council may appoint, for a period not to exceed one year and commencing on the date of the vacancy, a person who does not hold a municipal finance certificate to serve as Chief Financial Officer. A person so appointed may be reappointed as Chief Financial Officer following the termination of the temporary appointment for an additional year; provided, however, that no person shall serve as temporary Chief Financial Officer for more than two years.

§ 20-5 Tenure.

The Chief Financial Officer shall serve for a period of not less than five consecutive years to be eligible for tenure and shall thereafter continue to hold office during good behavior and efficiency as long as that person continues to hold a municipal finance certificate.

§ 20-6. Compensation.

Compensation of the Chief Financial Officer shall be fixed by ordinance.²

ARTICLE II
Division of Tax Assessments

§ 20-7. Establishment; Borough Tax Assessor.

Within the Department of Finance there shall be a Division of Assessments, the head of which shall be the Borough Tax Assessor. There may also be a Deputy Borough Tax Assessor as determined by the Mayor and Council, who shall act under the direct supervision of and assist the Borough Tax Assessor.

§ 20-8. Powers and duties of Assessor.

The Borough Tax Assessor shall have, perform and discharge all the functions, powers and duties as provided by law and municipal ordinance and shall perform all duties heretofore exercised by the Board of Assessors.

§ 20-9. Qualifications of Assessor.

The Borough Tax Assessor and Deputy Borough Tax Assessor shall hold a tax assessor certificate as provided for in P.L. 1967, c. 44, (N.J.S.A. 54:1-35.25 et seq.). The Borough Tax Assessor and Deputy Borough Tax Assessor need not be residents of the Borough of Butler.

§ 20-10. Appointment and term of Assessor.

The Borough Tax Assessor and Deputy Borough Tax Assessor shall be appointed by the nomination of the Mayor with the advice and consent of the Council and shall hold office for a term of four years from the first day of July next following the appointment. Vacancies other than due to expiration of term shall be filled by appointment for the unexpired term.

§ 20-11. Tenure of Assessor.

The Borough Tax Assessor, who shall be reappointed to the office upon the completion of one full term of four years, shall be eligible for tenure and shall thereafter continue to hold office during good behavior and efficiency as long as that person continues to hold a tax assessor certificate.

§ 20-12. Compensation of Assessor.

Compensation of the Borough Tax Assessor and Deputy Borough Tax Assessor shall be fixed by ordinance.³

1. Editor's Note: See N.J.S.A. 40A:9-140.1 et seq.

2. Editor's Note: [See Ch. 47, Salaries and Compensation.](#)

ARTICLE III
Division of Tax Collections

§ 20-13. Establishment; Borough Tax Collector.

Within the Department of Finance there shall be a Division of Tax Collections, the head of which shall be the Borough Tax Collector. There may also be an Assistant Borough Tax Collector as determined by the Mayor and Council, who shall assist the Borough Tax Collector in the performance of the duties of that position.

§ 20-14. Powers and duties of Collector.

The Borough Tax Collector shall have, perform and discharge all the functions, powers and duties as provided by law and municipal ordinance.

§ 20-15. Qualifications of Collector.

The Borough Tax Collector shall have obtained certification as a tax collector from the Division of Local Government of the State of New Jersey. The Borough Tax Collector and Assistant Borough Tax Collector need not be residents of the Borough of Butler.

§ 20-16. Appointment and term of Collector.

The Borough Tax Collector and Assistant Borough Tax Collector shall be appointed by the nomination of Mayor with the advice and consent of the Council and shall hold office for a term of four years from the first day of January next following the appointment. Vacancies other than due to expiration of term shall be filled by appointment for the unexpired term.

§ 20-17. Tenure of Collector.

The Borough Tax Collector, who shall be reappointed to the office upon the completion of one full term of four years, shall be eligible for tenure and shall thereafter continue to hold office during good behavior as long as that person continues to hold a tax collector certificate.

§ 20-18. Compensation of Collector.

Compensation of the Borough Tax Collector and Assistant Borough Tax Collector shall be fixed by ordinance.⁴

3. Editor's Note: See [Ch. 47, Salaries and Compensation](#).

ARTICLE IV
Establishment; Purchasing Agent
[Added: 6-21-2011 by Ord. No. 2011-11]

§ 20-19. Establishment; Purchasing Agent.

There is hereby created the position of Purchasing Agent for the Borough of Butler.

§ 20-20. Powers and duties

The Purchasing Agent shall have, on behalf of the Mayor and Council of the Borough of Butler, the authority, responsibility and accountability for the purchasing activity pursuant to Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.); to prepare public advertising for and to receive bids and requests for proposals for the provision or performance of goods, services and construction contracts; to award contracts pursuant to New Jersey law in accordance with the regulations, forms and procedures promulgated by state regulatory agencies; and conduct any activities as may be necessary or appropriate to the purchasing function of the Borough of Butler.

§ 20-21. Qualifications of Purchasing Agent

The Purchasing Agent is required to possess a valid Qualified Purchasing Agent certificate, as issued by the New Jersey Division of Local Government Services, Department of Community Affairs.

§ 20-22. Appointment and term of Purchasing Agent

The Purchasing Agent shall be appointed by the Mayor and Council and serve in that position at the will of the Mayor and Council.

BOROUGH OF BUTLER

ORDINANCE NO. 2020-17

**ORDINANCE AMENDING CHAPTER 21 OF THE REVISED GENERAL ORDINANCES OF
THE BOROUGH OF BUTLER**

BE IT ORDAINED by the Mayor and Council of the Borough of Butler, in the County of Morris and State of New Jersey, as follows:

Section 1. Chapter 21 of the Revised General Ordinances of the Borough of Butler entitled “Fire Department,” shall be amended to read in its entirety as follows:

Chapter 21

FIRE DEPARTMENT

- § 21-1. Department Structure
- § 21-2. Officers.
- § 21-3. Election and appointment of officers.
- § 21-4. Fire Police
- § 21-5. Vacancies
- § 21-6. Duties of officials.
- § 21-7. Membership
- § 21-8. Standard of efficiency.
- § 21-9. Exemptions.
- § 21-10. Alarms; observance of regulations.
- § 21-11. General provisions.

§ 21-1. Department Structure

The Department shall consist of two (2) Battalions that shall be designated as Engine Battalion #1 and Ladder-Rescue Battalion #2.

- A. Kinney Hose 341 and Bartholdi Hose 342 will be assigned to Battalion #1. Battalion #1 will have a maximum number of persons of 50. There will be 25 persons from Kinney Hose Company and 25 persons from Bartholdi Hose Company.
- B. Kiel Hook and Ladder 343 and Pequannock Engine and Hose 344 will be assigned to Battalion #2. Battalion #2 will have the maximum number of persons of 50. There will be 25 persons from Kiel Hook and Ladder Company and 25 persons from the Pequannock Engine and Hose Company.
- C. Regardless of a member’s company affiliation, all department members are part of both battalions. The apparatus makes up the battalions, not the department members. The fire department will establish an apparatus response guide based on the nature of an alarm. When a member arrives to the firehouse for an alarm, he/she will board the apparatus that fits the nature of the alarm.

- D. The Council reserves the right, by resolution, to reduce or increase the number of persons of any company, provided that no present members of the Fire Department shall be dropped to reduce a company to the required number.

§ 21-2. Officers.

- A. The Department Officers shall consist of a Department Chief, Deputy Chief, and Battalion Chief. This will make up the Board of Chiefs.
- B. The officers of each Battalion shall consist of a Captain and 2 Lieutenants.
- (1) Battalion #1 will consist of a captain (Captain 1) and two lieutenants. Captain 1 will supervise Engines 341 and Engine 342. Captain 1 will report back to the Battalion Chief. Lieutenant 1 will be in charge of Engine 341. Lieutenant 2 will be in charge of Engine 342.
 - (2) Battalion #2 will consist of a captain (Captain 2) and two lieutenants. Captain 2 will supervise Tower 343 and Rescue 344. Captain 2 will report back to the Battalion Chief. Lieutenant 3 will be in charge of Tower 343. Lieutenant 4 will be in charge of Rescue 344.
- C. The Board of Chiefs and the Master Mechanic shall hold a term of office provided herein and shall be responsible to the Mayor, Council and Borough Administrator in the performance of their respective duties. The Borough Administrator can suspend a member of the Board of Chiefs or the Master Mechanic for insubordination, dereliction of duty, moral turpitude or a criminal act or any act unbecoming of the position held. Upon the suspension a hearing will take place within 15 days by the Mayor and Council.

§ 21-3. Election and appointment of officers. [Amended: 3-15-2022 by Ord. No. 2022-01]

- A. Qualifications for officers. All officers of the Butler Fire Department must meet the following qualifications:
- (1) Be a resident of the Borough of Butler or a contiguous municipality.
 - (2) Be an active member in good standing in the Butler Fire Department.
 - (3) Must be a Fire Fighter 2 with the New Jersey Division of Fire Safety Certificate.
 - (4) Must be physically able to perform all duties of the rank held.
 - (5) Must be a National Incident Management Level 2 with the New Jersey Division of Fire Safety Certificate.
 - (6) Must be able to pass a background check.
 - (7) Must be able to pass a driver's license check.
 - (8) Must meet all other applicable Fire Fighter Standards per PEOSH.

B. Qualifications for Chief. The qualifications for a Chief in the Butler Fire Department shall be as follows:

- (1) Shall have served in all ranks of officer prior to this rank.
- (2) Must be a National Incident Management Level 2 with the New Jersey Division of Fire Safety Certificate.
- (3) Must be a Fire Officer Level 1 with a New Jersey Division of Fire Safety Certificate.
- (4) Must be an active member of the Morris County Alliance of Active Fire Chiefs and the Morris County Fire Chiefs Associations.
- (5) Not hold elected office as Mayor or a Councilman during the term as Chief.
- (6) Must be a resident of the Borough of Butler

C. Qualifications for Deputy Chief. The qualifications for a Deputy Chief in the Butler Fire Department shall be as follows:

- (1) Shall have served in all ranks as an officer prior to this rank.
- (2) Must be a Fire Officer Level 1 with a New Jersey Division of Fire Safety Certificate.
- (3) Must be a National Incident Management Level 2 with a New Jersey Division of Fire Safety Certificate.
- (4) Must have the Safety Officer Certificate from a New Jersey Division of Fire Safety approved training facility.
- (5) Must have Building Construction and Size-Up Certificates from a New Jersey Division of Fire Safety approved training facility.
- (6) Not hold elected office as Mayor or Councilman during the term as Deputy Chief.
- (7) Must be a resident of the Borough of Butler.

D. Qualifications for Battalion Chief. The qualifications for the Battalion Chief in the Butler Fire Department shall be as follows:

- (1) Shall have served in all ranks as an officer prior to this rank.
- (2) Must be a Fire Officer Level 1 with a New Jersey Division of Fire Safety Certificate.
- (3) Must be a National Incident Management Level 2 with a New Jersey Division of Fire Safety Certificate.
- (4) Must have the Safety Officer Certificate from a New Jersey Division of Fire Safety approved training facility.
- (5) Must have Building Construction and Size-Up Certificates from a New Jersey Division of Fire Safety approved training facility.
- (6) Not hold elected office as Mayor or Councilman during the term as Battalion Chief.
- (7) Must be a resident of the Borough of Butler

E. Board of Chiefs; terms and progression.

(1) The following conditions govern the Board of Chiefs terms:

a) Each Chief of the Board of Chiefs will serve a term of two years at each rank.

b) The order of progression for the Board of Chiefs will be as follows:

i. Battalion Chief (3)

ii. Deputy Chief (2)

iii. Department Chief (1)

(2) Should a vacancy occur in the Board of Chiefs, the next chief in line will progress up to the next chief position, to fill the vacancy without regard to the length of time in rank.

F. Elections.

- (1) The terms of the Board of Chiefs and Battalion officers begins with a swearing-in performed by the Mayor and Council.
- (2) A member wishing to hold a fire officer position within the fire department will have to have the proper certificates of training as outlined in the current Borough ordinance and will have met the fire department member efficiency standard for two consecutive years prior to the election.
- (3) For a department member to be eligible to vote he/she must be active and be on the company rolls for a minimum of 180 days, and maintain a minimum of 50% attendance at all fire calls, drills and work details.

G. Officer Election Process

(1) APPARATUS LIEUTENANT (Yearly election)

Any member wishing to be an apparatus lieutenant must be nominated and seconded by a member of the department during the October nomination meeting. This will be the only time a member can be nominated for an apparatus lieutenant position. Election will be held yearly at the conclusion of the November general department meeting. A member may be nominated for multiple apparatus lieutenant positions, once they have been elected to an apparatus their name will be removed from the remaining ballots. The order of selection will be as follows: 341, 342, 343, 344.

(2) Battalion Captain (Yearly election)

Any member wishing to be a captain of a battalion must be nominated and seconded by a member of the department during the October nomination meeting. This will be the only time a member can be nominated for the captain of a battalion position. Only members that have completed two years in the apparatus lieutenant position shall be eligible for a captain of a battalion position. Election will be held yearly at the conclusion of the November general department meeting. A member may be nominated for either captain of battalion position, once they have been elected to a battalion, their name will be removed from the remaining ballots. The order of selection will be as follows: Battalion 1, Battalion 2.

(3) BATTALION CHIEF

Any member wishing to be a Battalion chief must be nominated and seconded by a member of the department during the October nomination meeting. This will be the only time a member can be nominated for the Battalion chief position. Only members that have completed two years in the battalion captain position shall be eligible for the battalion chief position. Election will be held every two years (in conjunction with the chief rotation) at the conclusion of the November general department meeting.

(4) DEPUTY CHIEF

Will be promoted from the Battalion chief position. 2-year term (in conjunction with the chief rotation)

(5) DEPARTMENT CHIEF

Will be promoted from the deputy chief position. 2 year term. (In conjunction with the chief rotation).

- H. All fire officer elections, when required, shall be conducted no later than November 30th or within 30 days upon the resignation or removal of the person holding the fire officer position.

§ 21-4. Fire Police

- A. Before January 1 of each year, the Department will compile a list active exempt members who wish to be known as "Fire Police." The Secretary of the Department shall report the names of those members to the Mayor and Council for appointment. Each Fire Police so appointed shall be properly sworn in and given status as will enable him or her to perform the duties and have the powers of police officers at any fire emergency at which the Butler Fire Department is called upon to act.
- B. The Fire Police shall hold a meeting as soon as possible in the month of January to elect a Chief and an Assistant Chief of Fire Police.
- C. Fire Police shall, at all times, be subject to the orders of the Chief of the Butler Fire Department or such officer acting in his or her place and shall report, at each fire, to the Chief of the Butler Fire Department or such officer acting in his or her place, for proper instructions as to duties of the respective Fire Police.

§ 21-5. Vacancies.

- (1) In the event of a vacancy in the rank of Department Chief or Deputy Chief the next ranking officer will be promoted to that said rank. If the vacancy occurs in the Battalion Chief position an election shall be held within 30 day to elect a new Battalion Chief. The time each serves in there new rank will not count towards their normal two-year term.
- (2) In the event of a vacancy at Captain or Lieutenant in any battalion the Department will hold an election within 30 days to fill the vacant rank.
- (3) REMOVAL OF A LINE OFFICER (Lieutenant-Captain)
 - a. A line officer may be removed from their position for the following reasons; Be in violation of any part Borough Ordinance, current Borough Employee Handbook, Fire Department By-Laws or Fire Department Standard Operating Procedures/Standard Operating Guidelines.
 - b. If at any point during their term, the department president receives a written complaint detailing the reason for termination, signed by three members in good standing of the department, the president shall hold a special meeting. At said meeting, if 75% of the quorum votes in an affirmative action to remove that officer, that officer shall be removed. The removed officer will have the opportunity to appeal their removal within 15 calendar days of the vote to remove them. The appeal process will be heard by the board of Ex Chiefs. If the board of ex chiefs up holds the removal, the department president shall call for special election within 30 calendar days of the appeal. The election will follow the same criteria of the original election process.
- (4) REMOVAL OF A CHIEF OFFICER
 - a. A chief officer may be removed from their position for the following reasons; Be in violation of any part Borough Ordinance, current Borough Employee Handbook, Fire Department By-Laws or Fire Department SOP/SOG's.
 - b. At any point during their term, the department president receives a written complaint describing the reason for termination signed by three members in good standings of the department, the president shall hold a special meeting.

- c. At said meeting, if 75% of quorum votes in an affirmative action to remove that officer, the president of the department shall request that the Borough of Butler Public Safety Committee take action to remove said chief. The removed officer will have the opportunity to appeal their removal within 15 calendar days of the vote to remove them. The appeal process will be heard by the Mayor and council. If the Mayor and council up holds the removal, the remaining chiefs will be promoted to the next level. The department president shall call for special election within 30 calendar days of the appeal to select a new battalion chief. At the same election the department president shall hold an election to replace any vacated line officer position that was vacated by electing a new Battalion Chief. The election will follow the same criteria of the original election process.

§ 21-6. Duties of Officers.

- A. Duties of the Chief. The Chief shall be the commanding officer at all times. They shall be in command of the department whether at a fire, at an alarm of fire or at a drill and shall command the operations of the members in the performance of their duties and enforce the rules of the department and any ordinances of the Borough bearing on the Fire Department. In addition, they shall have the following duties.

They shall:

- (1) Be responsible to the Mayor and Council for all Borough fire equipment and the training of personnel.
- (2) Make recommendations for apparatus or equipment needed to the Mayor and Council based upon the recommendations from the Battalion Captain and Board of Chiefs.
- (3) Be responsible for developing the annual operating and capital improvement budgets and presenting same to the Public Safety Committee.
- (4) Communicate to the department at the department meetings or through the Battalion officers, Borough matters affecting the fire department.
- (5) Recommend to the council such additions, alterations, or repairs to the property of the department as they may deemed necessary for the safe efficiency of operations.
- (6) They shall also file with the Council the printed form adopted for such purpose of any fire occurring, and this report shall be presented at the monthly meeting following occurrence of such fire.

- (7) Have full authority to suspend any member of the Fire Department for just cause without first going to the members of the Fire Department and asking for their recommendation to do so. Such member so suspended, however, shall have the right to appeal the decision of the Chief of the Butler Fire Department to a committee comprised of at least five past chiefs present to constitute a quorum. Such members shall have the right to appeal a decision made by this committee to the Public Safety Committee of the Butler Borough Council within 15 days of the Former Chiefs Committee.
- (8) Upon approval of the Public Safety Committee of the Council, make sure temporary or urgent repairs or alterations as are necessary and which cannot wait for the approval of the Council at its next meeting are made.
- (9) Be responsible for conducting a minimum of 6 Board of Chiefs meetings throughout the year to discuss administrative and policy issues and to prepare the annual operating and capital improvement budgets.
- (10) Be responsible for conducting a monthly officer's meeting to discuss the firematic and administrative issues of the Fire Department.
- (11) They will file with the Administrator, Mayor and Council the activities and the attendance of fires, alarms, drills and work details monthly. The Master Mechanic's report of weekly inspections will also be submitted monthly to the Administrator, Mayor and Council.

B. Duties of the Deputy Chief are as follows:

- (1) The Deputy Chief shall see that the orders of the Chief be promptly and thoroughly executed. The Deputy Chief will report to the Chief during emergencies and will assume the position given by the Chief.
- (2) The Deputy Chief shall take command in the absence of the Department Chief and assume the same responsibility.
- (3) The Deputy Chief will be responsible for participating in all functions of the duties of Department Chief as part of his preparation for obtaining the position of Chief.
- (4) The Deputy Chief will be in charge of all purchasing and budget expenditures. The Deputy Chief will obtain the Department Chief's approval before making any purchases.
- (5) The Deputy Chief will assist the Chief in preparing the annual operating and capital improvement budgets.

C. Duties of the Battalion Chief are as follows:

- (1) The Battalion Chief shall keep an accurate record of fire, drill, and training man hours spent for the monthly and the annual reports.
- (2) The Battalion Chief will arrange for the training and drills of the fire department.
- (3) The Battalion Chief will assist the Chief in preparing the annual operating and capital improvement budget.
- (4) The Battalion Chief will be responsible for reporting to the Master Mechanic all repairs that are needed for the apparatuses.

D. Duties of Battalion Captains are as follows:

- (1) The Captain of each battalion, under the supreme control of the Chief, will have supervision over their assigned apparatus at all times. He/she shall, under the same supervision, direct the operation of the members of the department in the performance of their duties and enforce the rules of the Department in accordance with the laws adopted by the Council. Upon returning to headquarters, he/she shall see that the roll is called, absentees noted and a written report of such promptly submitted to the Chief. He/she shall report to the Incident command at all fires or alarms of fires, using the form adopted for that purpose.
- (2) He/she shall report all needed repairs to the Battalion Chief but shall have no power to alter any of the apparatus without the permission of the Battalion Chief. At a fire, the position of the Captain shall be at the origin of the fire directing the members.
- (3) Together both Captains, with the help of the four Lieutenants, will be responsible for planning the monthly department drills.

E. Duties of Lieutenants are as follows:

- (1) The Lieutenant of each apparatus shall be the assistant to the Battalion Captain and shall be under his/her command. The Apparatus Lieutenant shall be in command of the apparatus. He/she shall see that the apparatus is safely returned to the Fire Department headquarters, that nothing has been lost or mislaid while responding to an alarm and that nothing has been taken from the apparatus while at headquarters. He/she shall report to their Battalion Captain all those who fail to respond when called upon to clean apparatus or turn out for drill practice. He/she shall see that the apparatus is clean and in order, and is ready for the alarm.
- (2) Assist captains with planning the monthly department drills.

F. Duties of Master Mechanic are as follows:

It shall be the duty of the Master Mechanic to make weekly inspections of each apparatus and to make a monthly written report to the Chief and to keep the apparatus in perfect running condition. The Master Mechanic shall be responsible for the condition of the apparatus. No fire fighter is permitted to make any adjustments on any apparatus without the permission of the Master Mechanic. For these services he shall receive a sum as may be hereafter determined by resolution.

G. Driver Qualification For Apparatuses

- (1) Any member wanting to get qualified to drive fire department apparatuses shall follow the current SOGs and SOPs pertaining to driver training.
- (2) Once the member completes the driver training requirements, the board of chiefs will perform a road test for the trainee.

§ 21-7. Membership. . [Amended: 3-15-2022 by Ord. No. 2022-01]

A. Qualifications for membership in the Butler Fire Department shall be as follows:

- (1) Each applicant shall be a United States citizen and a resident of the Borough of Butler for at least 6 months, be a current member of a fire department of a contiguous municipality, or be a municipal employee holding a FFI certificate.
- (2) Each Applicant must be able to pass a background check.
- (3) Each applicant must pass a physical exam administered by the Department Doctor.
- (4) Nonresident membership – in the event that a member of the Fire Department shall move and no longer reside within the Borough, but lives or works within a five-mile radius of the Borough, the member may retain membership in the Fire Department upon recommendation of the Fire Chief and approval of the Mayor and Council.
- (5) Must have a valid New Jersey driver's license. If a member's driver's license is revoked or suspended, the member will report it to the Chief within 24 hours.
- (6) Any member of the Butler Fire Department that moves outside of Butler must report it to the Department Chief with 5 days of their move. Failure to do so may result in disciplinary action.

B. The department secretary shall submit a notice to the Borough Clerk which includes the company's social members, the names of its social officers and the dates of its regular organization meetings.

C. The Butler Fire Department shall establish a Membership Committee consisting of four (4) members made up of members with in the Department. This Committee shall establish objective qualifications for membership according to the requirements of this ordinance. Their sole responsibility shall be to evaluate applications and determine if the membership criteria has been met. It shall, within 60 days of receipt of an application, make a report to the Chief as to whether or not the applicant qualifies for membership. Its decision shall be binding.

D. Any individual seeking membership in the Butler Fire Department shall fill out an application for membership available from the Borough Clerk. This application shall be delivered to the Chairperson of the Department Membership Committee as defined in 21-7(C). The membership committee shall evaluate the application and report the outcome to the Department Chief.

E. Chairperson of the Department Membership Committee or other officer designated to receive applications shall date each application with the time of receipt and shall number the application according to its order of receipt relative to other applications.

F. Attendance Requirements

(1) Every active firefighter must attend an average of one drill per month and maintain a minimum quarterly fire call percentage of 50%. Percentage will be calculated by the number of alarms, drills, and work details. Annually the Board of Chiefs will give the Mayor and Council a list of work details which will be approved by the Mayor and Council. Every active firefighter shall also complete all mandatory training and testing, at the beginning of every year, as prescribed by the Fire Department Policies and Procedures and PEOSH Standards within the first quarter of each year. A record shall be kept of such attendance, and it is the duty of the Chief of the Fire Department to report it to the Borough Council monthly.

(2) Upon written notice to the board of Chiefs the requirements of this section shall be temporarily suspended for any firefighter who:

a. Is enrolled as a student in a university, college or any educational institution which requires the firefighter to temporarily reside outside the Borough of Butler, provided that the firefighter maintains a residence in the Borough of Butler during said absence. This exemption does not apply during school breaks or recesses. This exemption shall terminate upon successful completions, graduation and/or termination from said educational institution. However, at no time will any firefighter under this section be authorized to respond to any fire call until he/she has completed the requirements of all mandatory testing and training as prescribed by the Fire Department Policies.

b. Is employed full time by a company or business which obligates the firefighter to reside outside the State of New Jersey for an indeterminate period of time, provided the firefighter maintains a residence in the Borough of Butler during said absence. This exemption shall expire upon the firefighter's cessation of employment. However, at no time will said firefighter be authorized to respond to any fire call until he/she has completed the requirements of all mandatory testing and training as prescribed by the Fire Department Policies.

§ 21-8. Levels of Membership and Standards of Efficiency.

The standards of efficiency for members of the Butler Fire Department shall be based upon the level of membership. The following levels of membership in the Butler Fire Department and the standards of efficiency for each level shall be as follows:

A. Member in Good Standing

(1) The standard of efficiency in order to qualify as a member in good standing shall be as follows:

- a. Participation in at least 50% of all department functions in accordance with 21-7F.
- b. Adherence to all rules/regulations/policies of the fire department.
- c. Compliance with all training requirements of the Butler Fire Department.

(2) Privileges of a member in good standing:

- a. Voting privileges.
- b. Accidental insurance, life insurance and workers compensation insurance shall be provided by the Borough of Butler to these members.

B. Member in Good Standing/On Leave

(1) The qualification standards for membership in good standing/on leave and the limitations to this membership shall be as follows:

- a. Membership in good standing/on leave is reserved for a member that has expressed to the Department Fire Chief a difficulty in satisfying the criteria of a member in good standing. He/she does not want to be removed from the department roster, but has expressed a need to be inactive for a specified period of time due to personal reasons, medical need, or work or school commitments.
- b. In no case shall the member in good standing/on leave be on leave for a continuous period of more than one year.
- c. The member shall be in compliance with all training requirements of the Butler Fire Department upon return from leave.
- d. Any member that has been placed on approved leave from active duty for medical reasons shall be required to provide a release from a medical doctor certifying that the member is able to return to active duty. Any member that is out on approved leave from active duty for medical reason will be assigned to light duty status unless otherwise directed in writing by their doctor.
- e. The request for leave shall be submitted with a recommendation of the Department Chief to the Public Safety Committee. The Public Safety Committee shall review the request and notify the Department Chief of its decision.

(2) The standard of efficiency in order to qualify as member in good standing/on leave shall be as follows:

- a. Adherence to all rules/regulations/policies of the fire department.
- b. Specific requirements (if any) outlined under the approved leave shall be met.

(3) A member in good standing/on leave shall be entitled to the following:

- a. Voting privileges.
- b. Accidental insurance, life insurance and workers compensation insurance shall be provided by the Borough of Butler to these members.

C. Auxiliary Members

(1). Auxiliary members shall adhere to the requirements and standards as listed in Chapter 21 Fire Department of the Borough of Butler Municipal Codes, with the following exception: Auxiliary Members are prohibited from entering an IDLH environment as described by OSHA standard 29 CFR 1910.134.

(2) Auxiliary Members shall be easily identifiable at the scene.

(3) The auxiliary member level of membership will be limited by ordinance to 4 four members (one members per company), for the year starting 2024. At the discretion of the fire department starting in 2025, the auxiliary membership may increase by 4 more members, for a total of eight members (two members per company).

(4) The standard of efficiency in order to qualify as an Auxiliary member shall be as follows:

- a. Participation in at least 50% of all department functions in accordance with 21-7F.
- b. Adherence to all rules/regulations/policies of the fire department.
- c. Compliance with all training requirements of the Butler Fire Department pertaining to Auxiliary Members.

(5) Privileges of an Auxiliary member:

- a. Voting privileges.
- b. Accidental insurance, life insurance, and workers compensation insurance shall be provided by the Borough of Butler to these members.

D. Conditional Membership

(1) The qualification standards for conditional membership and the limitations to this membership shall be as follows:

- a. This status is for members that do not meet the requirements of a member in good standing or a member in good standing/on leave.
- b. Members remaining in the Conditional membership category for twelve consecutive months will be removed from the roles of the Butler Fire Department.

(2) The privileges for a conditional member shall be limited as follows:

- a. Life insurance and workers compensation insurance shall be provided by the Borough of Butler to these members.
- b. These members are not eligible to run for office in the fire department.
- c. Conditional members have no voting rights.

E. Associate Membership

(1) The qualification standards for associate membership and the limitations to this membership shall be as follows:

a. A retired or disabled member, who so wishes, will be considered for an Associate Membership. The request for Associate member status shall be submitted with a recommendation of the Department Chief to the Public Safety Committee. The Public Safety Committee shall review the request and notify the Department Chief of its decision.

(2) The privileges for an associate member shall be limited as follows:

- a. Associate members that have provided twenty-five (25) years of service in good standing to the Butler Fire Department shall remain eligible for the Life insurance benefit offered to the active members of the Butler Fire Department.
- b. Associate members have no voting rights.

F. Reviews of member efficiency shall be performed by the Department Chief every month as a minimum. Results shall be submitted to the Mayor and Council quarterly. In addition, all candidates seeking election to an officer's position in the fire department shall be reviewed prior to the election. Results of candidates seeking election to an office in the fire department shall be presented to the Mayor and Council one month prior to the election.

G. During the first 12 months of membership, all new members shall complete a Fire Fighter One Class as outlined in the NJ Administrative Code.

§ 21-9. Exemptions.

Exemption papers shall be issued in accordance with N.J.S.A. 40A:14-59.

§ 21-10. Alarms; observance of regulations.

- A. All active members shall perform the duties set them by the Chief and as ordered by the Captain and or Lieutenant of the apparatus.
- B. Each member shall, at each alarm of fire, report with all expedition to the firehouse. All members are required to respond to the firehouses to staff apparatus until all apparatus have been manned and are on the road. Officers may stop at the scene of the alarm if it is on their way to the firehouse and no higher-ranking officer has established command at the scene. In all cases where a firefighter has reported to the scene rather than the firehouse, he or she shall immediately report to his or her superior.
- C. At an alarm of fire, no member shall leave his or her post of duty unless so ordered by his or her superior officer.
- D. The first member of the department arriving at the station after an alarm of fire shall be in command of the department and shall act in that capacity until the arrival of his or her superior officer.

- E. In the case of a number of active members arriving at headquarters without any officers present, the member with the most years of service to the department shall take command aforesaid.
- F. After an alarm of fire, every member shall be expected to return with the apparatus and shall not leave the headquarters until the roll has been called by the officer in charge and dismissal given.
- G. Members may be excused from returning to headquarters by obtaining permission from the officer in charge of the scene.
- H. Under no condition shall a firefighter leave the apparatus or any position in which he or she may have been placed while on duty without the permission of the officer in command, except in case of emergency. Any member failing to obey orders or bringing and/or consuming alcoholic beverage at a fire or otherwise while on duty shall, if found guilty by the Chief of the Butler Fire Department, be suspended for a period of not less than thirty (30) days.
- I. No property of the Fire Department shall be taken outside the corporate limits of the borough without permission of the Council, except as hereinafter provided. Upon receiving a call for help from any of the adjoining communities, the Chief, in his or her discretion, shall select such apparatus as he or she may deem necessary to go to the aid of such communities, but in no instance shall the chief allow the borough to be without competent fire protection, nor shall he or she allow the fire apparatus to be endangered in any way by giving such aid. Apparatus wishing to participate in festivities outside the borough shall receive permission from the Department Chief.

§ 21-11. General provisions.

- A. All active members of the department shall be expected to perform the duties prescribed to them by the officer in charge.
- B. Only games of chance with proper permits in place shall be held in the firehouses. All others shall be forbidden under penalty of expulsion.
- C. Each social company shall be authorized to adopt bylaws, rules and regulations for the conduct of such company and the discipline of its members as shall be consistent with any of the provisions of this chapter. Each social company has provided a current copy of its bylaws, rules, and regulations to the Borough Clerk. All amendments to the bylaws, rules and regulations shall be filed with the Borough Clerk within ten (10) days of adoption.
- D. Each member of the Department shall be supplied with a printed copy of this chapter. Each member shall sign a receipt indicating they have received a copy of this chapter.

Chapter 25

HEALTH, BOARD OF

§ 25-1. Establishment; membership.

§ 25-3. Meetings.

§ 25-2. Powers and duties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 2-17 of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Salaries and compensation — See Ch. 47.](#)

[Board of Health legislation — See Part III of this Code.](#)

§ 25-1. Establishment; membership.

There shall be a Board of Health in the Borough of Butler which shall consist of five members. The members of the Board of Health who shall be residents and legal voters within the Borough shall be appointed by the Mayor with the advice and consent of the Borough Council. Members shall be appointed for a term of five years, except that of the members first appointed two shall hold office for one year, two for two years and one for three years. Appointments to fill vacancies shall be made in the same manner as original appointments, and all such appointments shall be for the unexpired term only.

§ 25-2. Powers and duties.

The Board of Health shall have the power and authority to adopt ordinances relating to the protection of the health of Borough residents, shall employ necessary personnel and fix their salaries and shall have under its jurisdiction the Bureau of Vital Statistics of the Borough, the Health Officer and such other employees as are necessary to carry out its duties. The Board of Health shall have all of the jurisdiction conferred upon boards of health by N.J.S.A. 26:1-1 et seq.

§ 25-3. Meetings.

The members of the Board shall meet at the Council rooms within 10 days of their appointments for the purpose of organization and the transaction of business.

Chapter 30

LIBRARY

ARTICLE I

Trustees of the Free Public Library

§ 30-1. Establishment.

§ 30-2. Membership; terms; alternates.

§ 30-3. Powers and duties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Trustees of the Free Public Library

[Adopted 3-14-1989 by Ord. No. 11-89]

§ 30-1. Establishment.

The free public library of the Borough of Butler under the management of a Board of Trustees was created by referendum on November 8, 1986, effective January 3, 1989.

§ 30-2. Membership; terms; alternates.

The Board of Trustees of the Free Public Library of the Borough of Butler heretofore established in the Borough shall continue, and the present members thereof shall continue until their respective terms expire. The Board of Trustees shall consist of seven members, one of whom shall be the Mayor and one of whom shall be the Superintendent of Schools. The other five members shall be appointed by the Mayor with the consent of the governing body, and at least four of the five citizen members must reside within the Borough. The initial appointments shall be for terms of one, two, three, four and five years, respectively, as they may be selected by the Mayor. Upon the expiration of the term of office of any Trustee, the Mayor shall appoint a citizen for a term of five years in the same manner as the original appointment was made. Vacancies occurring in the Board of Trustees shall be filled for the unexpired term only, in the same manner as the original appointments are made. The Mayor and Superintendent may, respectively, appoint an alternate to act in his place and stead with authority to attend the meetings and vote on matters before the Board.

§ 30-3. Powers and duties.

The Board of Trustees of the Free Public Library of the Borough of Butler shall:

- A. Hold in trust and manage all property of the library.
- B. Rent rooms or, when proper, construct buildings for the use of the library.
- C. Purchase books, pamphlets, documents, papers and other reading matter.

- D. Hire librarians and other necessary personnel and fix their compensation.
- E. Make proper rules and regulations for the government of the library.
- F. Generally do all things necessary and proper for the establishment and maintenance of a free public library within the Borough.
- G. The Board of Trustees shall annually make a report of its transactions, accounts and the state and condition of the library to the Council.

Chapter 33

MUSEUM AND HISTORICAL COMMITTEE

§ 33-1. Creation.

§ 33-2. Powers and duties.

§ 33-3. Membership; terms; compensation.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 12-16-1997 by Ord. No. 1997-27; Amended 7-16-2019 by Ord. No. 2019-14. Amendments noted where applicable.]

§ 33-1. Creation.

There is hereby created an advisory committee to be known as the "Butler Museum and Historical Committee."

§ 33-2. Powers and duties.

The mission of the Museum and Historical Committee shall be to advise the Mayor and Borough Council regarding the operation of the Butler Museum and issues related to the history of the Borough of Butler.

§ 33-3. Membership; terms; compensation.

- A. The Butler Museum and Historical Committee shall be comprised of up to eleven (11) members to be appointed by the Mayor with the advice and consent of the Council. The Committee may provide for mandatory membership obligations and may allow up to four of its members to serve in a reserve or temporarily inactive capacity under appropriate circumstances to be established by Committee rules. A quorum for conducting Committee business shall consist of one-half of the current active membership.
- B. The terms of office of the first members shall be for one, two or three years to be designated by the Mayor in making his appointments so that the terms of approximately 1/3 of the members will expire each year, and their successors shall be appointed for terms of three years and until the appointment and qualification of their successors.
- C. The members shall serve without compensation.

Chapter 36

OFFICERS AND EMPLOYEES

ARTICLE I

Defense and Indemnification

§ 36-1. Definitions.

§ 36-2. Defense of actions.

§ 36-2.1. Exceptions.

§ 36-2.2. Methods of providing defense.

§ 36-3. Reimbursement.

§ 36-3.1. Indemnification.

ARTICLE II

Discipline

§ 36-4. Definitions.

§ 36-5. Employees subject to discipline.

§ 36-6. Imposition of discipline.

§ 36-7. Procedure.

§ 36-8. Appeals.

ARTICLE III

Residency

§ 36-9. Domicile and residency requirements.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

[Administration of government — See Ch. 4.](#)

[Interference with Borough officials — See Ch. 85.](#)

[Salaries and compensation — See Ch. 47.](#)

ARTICLE I

Defense and Indemnification

[Adopted 4-10-1990 by Ord. No. 1990-8¹]

§ 36-1. Definitions.

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

EMPLOYEE — Includes any officer or employee, whether or not compensated, or part-time individual member of appointed boards and committees and elected officials, who are authorized to perform any act or service; provided, however, that the term does not include an independent contractor.

PUBLIC EMPLOYEE — Any employee or former employee of the Borough.

1. Editor's Note: This ordinance also repealed former Art. I, Defense and Indemnification, adopted 8-18-1981 by Ord. No. 14-81.

§ 36-2. Defense of actions.

The Borough shall provide for the defense of any civil or criminal action brought against a public employee for any act directly related to the lawful exercise of official authority in the furtherance of his or her official duties, and this obligation shall extend to any cross-action, counterclaims or cross-complaint against such employee.

§ 36-2.1. Exceptions.

The provisions of § 36-2 shall not be applicable when the Borough Council determines that:

- A. The act or omission was not directly related to the lawful exercise of official authority in the furtherance of his or her official duties.
- B. The act or failure to act was because of actual fraud, willful misconduct or actual malice.
- C. The defense of the action or proceeding is provided for by an insurance policy or policies, whether obtained by the Borough or by any other person.
- D. The public employee failed to deliver to the Borough Clerk, within 10 calendar days after the time he or she was served with the summons, complaint, process, notice, demand or pleading, the original or a copy of the same.
- E. The public employee has failed to cooperate fully with the defense.
- F. The action is a disciplinary proceeding instituted against the employee by the Borough or is a criminal proceeding instituted as a result of a complaint on behalf of the Borough. If, however, any such disciplinary or criminal proceeding instituted by or on behalf of the Borough is dismissed or finally determined in favor of the employee, the employee shall be reimbursed for the expense of his or her defense.

§ 36-2.2. Methods of providing defense.

The Borough may provide any defense required of it under this Article through the Borough Attorney or through the retention of another attorney. The cost of retention of an outside attorney shall be provided when the defense of the action or proceeding creates a conflict of interest between the Borough and the public employee.

- A. When the Borough provides any defense required of it under this Article through the Borough Attorney, the Borough may assume exclusive control over the representation of the public employee, and such employee shall cooperate fully with the defense.
- B. The Borough Council may approve the retention of an outside attorney in accordance with the following conditions:
 - (1) The employee does not have the right to an attorney of his or her choice at Borough expense. However, the Borough Council may approve of an attorney requested by the employee.
 - (2) The attorney retained by the Borough shall provide a written retainer agreement and shall submit an affidavit of services rendered prior to payment.

- (1) Nothing in this section shall prevent an employee from retaining an attorney of the employee's choice at his or her own expense, without reimbursement from the Borough.

A. Borough Attorney responsibilities; possible conflicts.

- (1) When the outside attorney is retained, the Borough Attorney shall be directly involved with the public employee's attorney concerning any recommendation for settlement of a civil lawsuit. The Borough Attorney shall then present any recommendation of settlement, which must be in the best interest of the Borough, to the Borough Council for its approval.
- (2) Where a possible conflict exists between the Borough and the public employee, acting within the scope of his official Borough duties, and where both are named as parties in the same civil lawsuit, the Borough Attorney may decline any involvement in the matter.
- (3) In circumstances involving litigation or other legal proceedings between two public employees qualifying for the privileges granted herein, the Borough Attorney will not be required to represent or otherwise participate on behalf of either party.

§ 36-3. Reimbursement.

A. Where the employee is not provided with a defense as a result of a determination that the exceptions set out in Subsection A, B or F of § 36-2.1 are applicable, the employee shall be entitled to reimbursement of legal expenses when:

- (1) The legal action is dismissed or finally determined in favor of the employee; and
- (2) The Borough Council is notified within 30 days of the termination of the proceeding and a signed attorney's affidavit of service is provided.

B. The Borough will reimburse only an amount the Borough Council determines to be reasonable, even if the attorney fees to be paid by the employee are greater than that amount. The Borough, under no circumstance, will be liable to the private attorney; rather, the Borough will directly reimburse the employee.

§ 36-3.1. Indemnification.

A. In any case where the Borough is required to provide a defense or where the employee is entitled to defense reimbursement under this Article, the Borough shall pay or shall reimburse the public employee for:

- (1) Any bona fide settlement agreements entered into by the employee, provided that the procedures set out in this Article have been complied with.
- (2) Any judgments entered against the employee.

B. In addition, in any case where the Borough would be required to provide a defense under this Article, except for the fact that such defense is provided for by insurance, the

Borough shall provide indemnification as aforesaid, but only to the extent not covered by insurance. Nothing in this Article shall authorize the Borough to pay for punitive or exemplary damages or damages resulting from the commission of a crime, except the Borough may indemnify an employee for exemplary or punitive damages resulting from the employee's civil violation of state or federal law, if, in the opinion of the Borough Council, the acts committed by the employee upon which the damages are based did not constitute actual fraud, actual malice, willful misconduct or intentional wrong.

ARTICLE II

Discipline

[Adopted 3-13-1990 by Ord. No. 1990-7]

§ 36-4. Definitions.

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

DEPARTMENT SUPERVISOR — The individual charged with the supervision and monitoring of all activities and employees within a given department.

EMPLOYEE — A person appointed to a permanent position created within a specific department or position created by the Borough.

MAJOR DISCIPLINARY ACTION — Includes:

- A. Removal.
- B. Disciplinary action.
- C. Suspension or fine for more than five working days at any one time.
- D. Suspension or fine for five working days or fewer where the aggregate number of days suspended or fined in any one calendar year is 15 working days or more.
- E. The last suspension or fine where an employee receives more than three suspensions or fines of five working days or fewer in a calendar year.

MINOR DISCIPLINARY ACTION — Includes:

- A. A formal written reprimand.
- B. A suspension or fine of five working days or fewer.

§ 36-5. Employees subject to discipline.

Any employee who shall violate any statute of the State of New Jersey or any ordinance, rule or regulation promulgated by the Borough of Butler regulating the performance and conduct of Borough employees; or who shall be charged with an act of insubordination; or who shall otherwise act in a manner inconsistent with that becoming a Borough employee, whether committed on or off duty, shall be subject to the procedures herein established for the

discipline, suspension and termination of Borough employees. Disciplinary action in all cases will be decided on the merits of each case.

§ 36-6. Imposition of discipline.

- A. No discipline shall be imposed on an employee, except through the procedures set out in this Article, except that nothing contained in this Article shall preclude an immediate suspension pursuant to N.J.S.A. 11A:2-13.
- B. No discipline shall be imposed until such time as all hearings and appeals to which the employee is entitled under this Article or state law have been concluded.

§ 36-7. Procedure.

- A. Before any disciplinary action is taken against an employee, the department supervisor of the employee shall notify the employee in writing of the charges against him.
- B. Every employee is entitled to a hearing prior to the imposition of disciplinary action.
 - (1) The hearing officer shall be the department supervisor or another person designated by the Borough Administrator.
 - (3) The hearing shall be held within 30 days from the date the employee is given notice, unless the employee and the hearing officer agree to an adjournment.
 - (4) The hearing shall be informal in nature. The procedure used shall be within the discretion of the hearing officer. The employee may be represented by an attorney or authorized union representative.
 - (4) The hearing officer shall render a decision within 20 days after the hearing and shall furnish the employee with written notice of the decision.

§ 36-8. Appeals.

- A. Appeals of major disciplinary action are to the Merit System Board pursuant to N.J.S.A. 11A:2-14 et seq.
- B. An employee subject to minor disciplinary action is entitled to an appeal before the Borough Administrator.
 - (1) If the employee wishes to appeal to the Borough Administrator, he or she shall submit a written request for a hearing to the Borough Administrator within 20 days of receipt of the hearing officer's decision.
 - (2) The appeal hearing shall be a de novo review and shall be informal in nature. The procedure used shall be within the discretion of the Borough Administrator. The employee may be represented by an attorney or an authorized union representative.

ARTICLE III

Residency

[Adopted 12-11-1990 as Sec. 2 of Ord. No. 1990-27]

§ 36-9. Domicile and residency requirements.

Domicile or residence within the Borough of Butler shall not be required of any officer or employee of the Borough of Butler except:

- A. Where domicile or residence within the Borough is required by state law; or
- B. Where the Borough Council, by ordinance creating the position or otherwise, expressly makes domicile or residence a qualification for the position.

Chapter 40

POLICE DEPARTMENT

- § 40-1. Establishment; composition.
- § 40-2. Use of dogs.
- § 40-3. Appointment.
- § 40-4. (Reserved)
- § 40-5. Qualifications for appointment.
- § 40-6. Oath of office.
- § 40-7. Uniforms.
- § 40-8. Duties and responsibilities of Chief of Police.
- § 40-8.1. Interference with police operations.
- § 40-9. Members responsible for enforcement.
- § 40-10. Conduct of members.
- § 40-11. Use of liquor; smoking.
- § 40-12. Absences from duty; resignation.
- § 40-13. Discipline.
- § 40-14. Adoption of rules and regulations.
- § 40-15. Chaplain.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 2-11 of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Officers and employees — See Ch. 36.](#)

[Salaries and compensation — See Ch. 47.](#)

[Special law enforcement officers — See Ch. 55.](#)

[Interference with Borough officials — See Ch. 85.](#)

[Police escort service — See Ch. 173.](#)

§ 40-1. Establishment; composition. [Amended 8-19-1980 by Ord. No. 80-17; 8-18-1992 by Ord. No. 1992-12; 2-7-2006 by Ord. No. 2006-2; 12-21-2010 by Ord. No. 2010-13A; 3-18-2014 by Ord. No. 2014-3]

A Police Department be and is hereby established for the Borough to consist of a Chief of Police, two Lieutenants of Police; up to four Sergeants of Police, who shall be patrol supervisors; and up to ten patrol officers.

§ 40-2. Use of dogs.

The Council may, from time to time, by resolution authorize the Department to procure one or more dogs to assist with appropriate police functions. Any such dog shall be properly trained and tested and approved by the Chief of Police before being actively used by any member of the Police Department pursuant hereto.

§ 40-3. Appointment. [Amended 8-18-1992 by Ord. No. 1992-12]

All appointments to the Police Department shall be made in conformance with Chapter 4 of the Revised General Ordinances of the Borough of Butler and the rules and regulations of the New Jersey Department of Personnel.

§ 40-4. (Reserved) ¹**§ 40-5. Qualifications for appointment. [Amended 12-11-1990 by Ord. No. 1990-27; 8-18-1992 by Ord. No. 1992-12; 4-21-1998 by Ord. No. 1998-12; 5-17--2022 by Ord. No. 2022-19]**

Except as otherwise set for the herein, appointments to the Police Department shall be made in accordance with applicable law from lists of eligible candidates provided to the Borough by the New Jersey Department of Civil Service.

Appointments of entry level police officers may, in the sole discretion of the appointing authority, be made in accordance with the provisions of N.J.S.A. 11A:4-1.3 which allows for the hiring of an entry-level police officer without taking a Civil Service exam if they meet the criteria contained in N.J.S.A. 11A:4-1.3

Applicants for appointment to positions in the Police Department shall be classified pursuant to N.J.S.A. 40A:14-123.1a in the following classes:

- A. Residents of the Borough of Butler.
- B. Other residents of the County of Morris.
- C. Other residents of the State of New Jersey.
- D. All other qualified applicants.

§ 40-6. Oath of office.

Every member of the Police Department, before entering upon the performance of his duties, shall take and subscribe an oath or affirmation to faithfully and impartially discharge the duties of the office and shall sign the police register. The oath or affirmation shall be filed with the Clerk of the Borough.

§ 40-7. Uniforms.

Members of the Police Department, while on duty, shall wear full regulation uniform adopted by the Council, unless detailed in civilian dress by the Chief of Police.

1. Editor's Note: Former § 40-4, Special officers, as amended 8-19-1980 by Ord. No. 80-17, was repealed 5-3-1988 by Ord. No. 9-88. For current provisions dealing with special law enforcement officers, see [Ch. 55](#).

§ 40-8. Duties and responsibilities of Chief of Police. [Amended 10-20-1981 by Ord. No. 21-81; 6-21-1983 by Ord. No. 11-83]

- A. The Chief of Police shall be the head of the Police Department, shall be responsible to the Municipal Administrator and the governing body of the Borough of Butler for the efficiency and day-to-day operations thereof and he shall, pursuant to policies established by the governing body:
- (1) Administer and enforce rules and regulations established by the governing body for the disposition and discipline of the force and its officers and personnel.
 - (2) Have, exercise and discharge the functions, power and duties of the force.
 - (3) Prescribe the duties and assignments of all subordinates and other personnel within the Department.
 - (4) Administer the work of the force through the divisions and such other units of administration as he may find necessary or desirable.
 - (5) Delegate such of his authority as he may deem necessary for the efficient operation of the force to be exercised under his discretion and supervision.
 - (6) Report, at least monthly, to the Municipal Administrator in such form as shall be prescribed by the Municipal Administrator on the operation of the force during the preceding month and make such other reports as may be requested by the Municipal Administrator.
- B. In the event of a vacancy in the office of Chief of Police, or in the absence of the Chief, the duties of Chief shall be performed by a member of the Department designated by the Municipal Administrator and confirmed by the governing body until the vacancy is filled or the Chief returns to duty.

C. Special assignments.

- (1) The Chief shall have responsibility for the receipt of applications from property owners or organizations in the Borough who request the assignment of police for the purpose of extraordinary traffic control or security assistance beyond that which is regularly provided in the case of carnivals, fairs, sports events, social events or other special events or functions. Upon their application to the Chief, he shall assign such members of the Police Department as shall be required for such special detail.
- (2) The members of the Police Department so assigned shall be compensated in accordance with the rate provided for such duty in the Salary Ordinance of the Borough.² Following completion of the services above-described, the Borough Clerk shall issue a bill to the property owners or organization utilizing such services. The fee to be charged by the Borough Clerk shall be the amount required to compensate such members of the Police Department and pay administrative costs in accordance with the Salary Ordinance of the Borough of Butler and other applicable laws and regulations. No member of the Police Department shall undertake any such special assignment except pursuant to the direction of the Chief of Police.
- (3) Upon being assigned to such duty, any member of the Department shall have the right to refuse the assignment; provided, however, that the Chief may assign any member after he has determined that no member wishes to serve on a voluntary basis.

§ 40-8.1. Interference with police operations. [Added 10-20-1981 by Ord. No. 21-81; amended 6-21-1983 by Ord. No. 11-83]

No member of the Council or the Mayor or the Municipal Administrator shall, other than in the performance of the duties of his office, seek to influence the operations of the police force or the official acts of any police officer nor attempt to influence the appointment or removal of any person as a police officer nor attempt to interfere in any way with the performance by such officers of their duties. The Mayor and Council and the Municipal Administrator and all executive and administrative officers of the municipality shall deal with the day-to-day operations of the police force solely through the Chief of Police, and shall not seek to direct individual police officers, either publicly or privately, except through the established line of authority. Nothing herein contained shall prevent the appointment by the Mayor and Council of committees or commissions to conduct investigations of the operations of the police force and the delegation to such committees or commissions of such power of inquiry as the Mayor and Council deem necessary. Nothing herein contained shall prevent the Police Committee or any executive or administrative officer charged with general administrative responsibilities within the municipality from examining at any time the operations of the police force or the performance of any officer or member thereof.

2. Editor's Note: See [Ch. 47, Salaries and Compensation](#).

§ 40-9. Members responsible for enforcement.

The members of the Police Department shall be held responsible for the proper enforcement of all ordinances of the Borough and laws of the state. They shall arrest, without warrant, any person or persons who in their presence shall violate any laws or ordinances and shall promptly execute all warrants and serve all court orders issued to them and such other papers as required of them to be served within the limits of the Borough; they shall patrol the streets of the Borough at such times and on such routes and perform such other police duty and service as may be assigned to them by the Chief of Police.

§ 40-10. Conduct of members.

The members of the Police Department shall be courteous and considerate in all their dealings with the public at all times and exercise vigilant watchfulness over the safety and welfare of all persons and property within the limits of the Borough. In enforcing the law, no more force shall be used than is warranted by the exigencies of each particular case.

§ 40-11. Use of liquor; smoking.

Every member of the police force shall refrain from the use of intoxicating liquors and shall not smoke while on duty in uniform. They shall not enter any public building or private house except in the discharge of their official duty.

§ 40-12. Absences from duty; resignation.

- A. No member of the Police Department shall leave the Borough without permission of the Chief of Police or, in his absence, the officer in charge.
- B. No member of the Police Department shall be absent from duty without first securing leave from the Chief of Police or, in his absence, the officer in charge. Failure to secure such permission shall be deemed "absence without leave," and subject the offender to loss of pay during absence and charges.

- C. Unexplained absence of any member of the Police Department for five consecutive days shall be deemed and held as resignation of such member and recognized as such.
- D. No member of the Police Department shall be allowed to resign while charges are pending against him except by permission of the Mayor and the Police Committee.

§ 40-13. Discipline. [Added 3-13-1990 by Ord. No. 1990-6³]

- A. The appropriate authority for the discipline and removal of members of the Police Department shall be the Municipal Administrator or his designee. The procedures for discipline of Borough employees set out in Chapter 36 of the Code of the Borough of Butler shall to Police Department employees.
- B. No member of the Police Department shall be removed from office or employment for political reasons or for any cause other than incapacity, misconduct or disobedience of rules and regulations established for the governing of the Police Department.

§ 40-14. Adoption of rules and regulations. [Added 3-13-1990 by Ord. No. 1990-6⁴]

The appropriate authority for the promulgation of the rules and regulations of the Police Department is the Borough Council. The Council, by resolution, from time to time as may be necessary, shall adopt and amend rules and regulations for the government and discipline of the Police Department and members thereof. Said rules and regulations shall fix and provide for the enforcement of penalties for the violation of such rules and regulations. The members of the Police Department shall be subject to such rules, regulations and penalties and the laws of this state and the ordinances and regulations of the Borough.

§ 40-15. Chaplain. [Added 12-19-2000 by Ord. No. 2000-29]

There is hereby established the position of Chaplain to the Police Department of the Borough of Butler. The Mayor may, with the consent of the Council, appoint an ordained clergyman in good standing in the religious body from which he or she is ordained to serve as Chaplain to the Police Department. The individual appointed shall serve at the pleasure of the Mayor and Council. The Chaplain shall become a member of the Butler Police Department, but shall serve without rank and without salary.

3. Editor's Note: This ordinance also repealed former § 40-13, Removal from office or employment, and § 40-14, Adoption of rules and regulations.

4. Editor's Note: This ordinance also repealed former § 40-13, Removal from office or employment, and § 40-14, Adoption of rules and regulations.

Chapter 42

PUBLIC WORKS, DEPARTMENT OF

§ 42-1. Establishment; purpose and responsibilities.

§ 42-2. Divisions.

§ 42-3. Chain of command.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 8-21-1984 by Ord. No. 15-1984. Amendments noted where applicable.]

GENERAL REFERENCES

[Officers and employees — See Ch. 36.](#)

[Sewerage Authority — See Ch. 50.](#)

§ 42-1. Establishment; purpose and responsibilities.

There is hereby established within the Borough of Butler the Department of Public Works. The purpose of and the responsibility of the Department of Public Works shall be the proper and safe operation of the electric utility, the water utility and the sanitary sewer system, as well as the maintenance and upgrading of all streets, storm sewers, Borough-owned property and all Borough-owned automotive or construction equipment.

§ 42-2. Divisions.

Within the Department of Public Works there shall be the following divisions:

- A. Division of Electricity.
- B. Division of Water.
- C. Division of Sanitary Sewer.
- D. Division of Streets and Roads.

§ 42-3. Chain of command.

- A. The Department of Public Works shall be under the direction and supervision of the Director of Public Works, who shall be appointed by the Mayor and Council. The Director of Public Works shall be responsible to the Mayor and Council for the proper operation of the Department. All division heads shall be responsible to and report to the Director of Public Works.
- B. The head of the Electric Division shall be the Electric Foreman, and all personnel assigned to the Electric Division shall be responsible to and report to the Electric Foreman.

- C. The head of the Water Division shall be the Chief Water Treatment Plant Operator, who shall be licensed by the State of New Jersey to permit his operation of the Borough's water system, and all personnel assigned to the Water Division shall be responsible to and report to the Chief Water Treatment Plant Operator.
- D. The head of the Sanitary Sewer Division shall be the Chief Sewerage Treatment Plant Operator, who shall be licensed by the State of New Jersey to permit his operation of the Borough's sewer system, and all personnel assigned to the Sanitary Sewer Division shall be responsible to and report to the Chief Sewerage Treatment Plant Operator.
- E. The Division of Streets and Roads shall be headed by the Public Works Foreman, and all personnel assigned to the Division of Streets and Roads shall be responsible to and report to the Public Works Foreman.

Chapter 43

BUILDING CONSTRUCTION AND CODE ENFORCEMENT, DEPARTMENT OF

§ 43-1. Establishment; purpose and responsibility.

§ 43-2. Divisions.

§ 43-3. Organization.

§ 43-4. Establishment of positions.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 11-12-1990 by Ord. No. 1990-22. Amendments noted where applicable.]

GENERAL REFERENCES

Administration of government — See Ch. 4.
Officers and employees — See Ch. 36.

Uniform construction codes — See Ch. 101.
Land use — See Ch. 143.

§ 43-1. Establishment; purpose and responsibility.

There is hereby established within the Borough of Butler the Department of Building Construction and Code Enforcement. The purpose of and the responsibility of the Department of Building Construction and Code Enforcement shall be the enforcement of the Construction Codes, all subcodes and the Zoning Ordinance of the Borough of Butler.¹ The Department of Building Construction and Code Enforcement shall also be responsible for handling the administrative and clerical needs of the Planning Board and the Board of Adjustment.

§ 43-2. Divisions.

Within the Department of Building Construction there shall be the following divisions:

- A. Fire Subcode.
- B. Building Subcode.
- C. Plumbing Subcode.
- D. Electrical Subcode.
- E. Zoning Code Enforcement.

§ 43-3. Organization.

The Construction Official shall be the designated supervisor for the Department of Building Construction and Code Enforcement. The subcode positions, the Zoning and Code Enforcement Officer and the Control Officer shall report directly to the Construction Official.

1. Editor's Note: See [Ch. 101, Construction Codes, Uniform](#), and Part 6 of [Ch. 143, Land Use](#).

§ 43-4. Establishment of positions.

- A. The positions of Construction Official, Building Subcode Official, Plumbing Subcode Official, Electrical Subcode Official and Fire Protection Subcode Official have previously been established in § 101-1 of the Revised Code of the Borough of Butler.
- B. There is hereby established the position of Zoning and Code Enforcement Officer. The Zoning and Code Enforcement Officer shall have the responsibility for the enforcement of the Zoning Ordinance of the Borough of Butler.
- C. There is hereby established the position of Control Officer. The Control Officer shall have the responsibility of handling the administrative duties of the Construction Official and Subcode Officials.
- D. There is hereby established the position of Administrative Officer. The Administrative Officer shall handle the administrative and clerical responsibilities for the Planning Board, the Board of Adjustment and the Zoning and Code Enforcement Officer.

Chapter 44

RECREATION COMMISSIONERS, BOARD OF

- § 44-1. Establishment.
- § 44-2. Appointment of members.
- § 44-3. Term of membership; compensation.
- § 44-4. Chairman.
- § 44-5. Acquisition and selection of lands; surveys and maps.
- § 44-6. Authorization for acquisition of lands.
- § 44-7. Fund-raising to meet operating costs.
- § 44-8. Regulation of recreation lands.
- § 44-9. Budget.
- § 44-10. Money for purchase to be raised by taxation or bonds; maintenance of special fund.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 2-20 of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Salaries and compensation — See Ch. 47.](#)

[Parks and recreation areas — See Ch. 168.](#)

§ 44-1. Establishment.

Pursuant to N.J.S.A. 40:12-1 et seq. and such subsequent statutes in such case as may from time to time be provided, there is hereby established a Board of Recreation Commissioners.

§ 44-2. Appointment of members. [Amended 11-18-2014 by Ord. No. 2014-14.]

The Board of Recreation Commissioners shall consist of seven (7) persons appointed by the Mayor and up to two (2) alternate members appointed by the Mayor.

§ 44-3. Term of membership; compensation.

The Commissioners first appointed shall be appointed for terms of one, two, three, four and five years, respectively, and thereafter all appointments shall be for the term of five years. The additional Commissioners appointed to increase the Board from five to seven members shall be appointed one for a four-year term and one for a five-year term, and thereafter for terms of five years. Any vacancies shall be filled for the unexpired term only. The members shall serve until their respective successors are appointed and shall qualify. The members shall receive no compensation for their services.

§ 44-4. Chairman.

The Board of Recreation Commissioners shall select one of their number as Chairman of the Board for a term of one year.

§ 44-5. Acquisition and selection of lands; surveys and maps.

- A. The Board of Recreation Commissioners may acquire lands for public playgrounds and recreation places, by gift or purchase only if such acquisition is first approved by the Mayor and Borough Council, and it shall from time to time select lands for public playgrounds and recreation places and, when deemed necessary or advisable by such Board, select lands for an approach or approaches by way of ingress thereto and egress therefrom of such size and dimensions as they shall think suitable, regard being had to the population of the neighborhood.
- B. They shall cause surveys and maps to be made thereof, together with a careful estimate, as nearly accurate as may be, of the probable costs of acquiring such lands, and a statement of the annual rental and duration of term, if it is proposed to lease the same, together with an estimate of the cost of preparing such lands and suitably equipping the same by the erection of buildings, stands, seats and other structures and apparatus for such playgrounds and recreation places.
- C. Such surveys, maps and estimates shall be submitted to the Mayor and Borough Council with a request that an appropriation be made for the purpose of acquiring or leasing such lands, as the case may be, and suitably preparing and equipping the same.

§ 44-6. Authorization for acquisition of lands.

- A. If the Mayor and Borough Council authorize by resolution the acquisition of such lands and appropriate a sum for the purchase and equipment thereof, or authorize the leasing thereof and appropriate a sum for the equipment thereof, the Board shall proceed to acquire the same by purchase, condemnation or lease, as the case may be, and suitably prepare and equip the same for a playground and recreation place, or approach thereto.
- B. If the Board is unable to agree with the owner or owners as to the price and terms of purchase, or if, by reason of any legal disability, or the absence of any owner or owners thereof, or for any other cause, and agreement for the purchase of such lands or any part thereof, or any rights or interest therein cannot be made, the Board may cause such lands or any rights or interests therein to be condemned and taken on behalf of the Borough, and the compensation to be made therefor shall be ascertained and paid or tendered in the manner provided in Chapter I of the title Eminent Domain.¹
- C. The Board may cause any lands so acquired to be laid out and improved as a public playground, recreation place or an approach thereto.
- D. The title to all lands acquired or taken hereunder shall vest in the Borough, and all leases of land for such purpose shall be in the name of the Borough of Butler.

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

§ 44-7. Fund-raising to meet operating costs.

- A. In order to provide the funds, in whole or in part, necessary to improve, maintain and police the playgrounds or recreation places under its control, the Board of Recreation Commissioners may arrange and provide for the giving of exhibitions, plays, concerts, games and contests and may use and employ such playgrounds or recreation places for the purpose of giving thereon exhibitions, plays, concerts, games and contests.
- B. The Board may charge and collect a reasonable admission fee for each person entering such playground or recreation place as a spectator during the time or times when the same is being used or employed for such purposes, but shall not use or employ any such playground or recreation place for such purpose for a greater period than a ratio of one hour to every two hours in each day during which the playground or recreation places are utilized nor more than 16 hours in any one calendar week, and when any such playground or recreation place is used for such purpose, no admission fee shall be charged or collected from children under 12 years of age.
- C. The Board of Recreation Commissioners may charge and collect a reasonable service charge from persons using, as participants, special areas and facilities which require special maintenance and the use of which is restricted to relatively few people, in order to assist in the meeting of the operating costs thereof in whole or in part.

§ 44-8. Regulation of recreation lands.

- A. Administration. The Board of Recreation Commissioners shall have full control over all lands, playgrounds and recreation places acquired or leased pursuant to law and the provisions of this chapter, and may adopt suitable rules, regulations and bylaws for the use thereof, and the conduct of all persons while on or using the same. Any persons who shall violate any of such rules, regulations or bylaws shall be deemed and adjudged to be a disorderly person.
- B. Enforcement. The custodians, supervisors and assistants appointed by the Board shall, while on duty and for the purpose of preserving order and the observance of the rules, regulations and bylaws of the Board, have all the power and authority to enforce such rules and regulations.
- C. Personnel. The Board may appoint a Secretary or Clerk and such number of custodians, supervisors and assistants for the several playgrounds and recreation places under its control as it shall think necessary and fix and determine their salaries, if any.

§ 44-9. Budget.

- A. Each year the Board of Recreation Commissioners shall develop a budget for the ensuing calendar year and present the same to the Mayor and Borough Council on or before November 1, which budget shall give the details of the moneys considered necessary to carry out the recreational program and show the amount allocated for the various required services.

- B. The Mayor and Council shall consider the budget and may approve or disapprove the same, in whole or in part, and shall annually fix, determine and appropriate a sum sufficient for the care, custody, policing and maintenance of such playgrounds and recreation places, and for the expenses of the Board of Recreation Commissioners, which shall be raised by taxation in the same manner as other taxes.

§ 44-10. Money for purchase to be raised by taxation or bonds; maintenance of special fund.

- A. The money necessary to pay for lands purchased or condemned for such playgrounds and recreation places and for providing and equipping the same, from time to time, may be raised and provided by the Board or body having control of the finances by general taxation, as other taxes are raised and levied, or by the issuance of temporary loan bonds, or by the issuance of permanent bonds. All such bonds or other obligations shall be issued and paid in the manner provided by N.J.S.A. 40:1-1 et seq.²
- B. All moneys received by the Board shall be paid over to the Municipal or County Treasurer and be by him kept in a special fund, which fund shall be under the control of the Board and used only for the purpose of defraying the expenses of improving, maintaining or policing the playgrounds and recreation places and for the other expenses of the Board.

2. Editor's Note: N.J.S.A. 40:1-1 et seq. has been repealed. For current provisions, see N.J.S.A. 40A:2-1 et seq.

Chapter 47

SALARIES AND COMPENSATION

[The salaries and compensation of the officers and employees of the Borough of Butler are established by the Mayor and Council in the annual Salary Ordinance, copies of which are on file in the office of the Borough Clerk and are available for examination during regular office hours.]

GENERAL REFERENCES

[Administration of government — See Ch. 4.](#)

[Fire Department — See Ch. 21.](#)

[Board of Health — See Ch. 25.](#)

[Police Department — See Ch. 40.](#)

[Board of Recreation Commissioners — See Ch. 44.](#)

Chapter 49

SENIOR RADIO DISPATCHER

§ 49-1. Establishment.

§ 49-2. Duties.

§ 49-3. Qualifications.

§ 49-4. Appointment.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 3-19-1985 by Ord. No. 85-4. Amendments noted where applicable.]

§ 49-1. Establishment.

There is hereby established the position of Senior Radio Dispatcher.

§ 49-2. Duties.

The duties of the position of Senior Radio Dispatcher shall be to take charge of the Borough's dispatchers for the purpose of establishing appropriate work schedules for all dispatchers; making certain that the procedures established by the Borough for dispatchers is in fact followed and that all appropriate records and reports are prepared and submitted in a timely fashion, as well as such other duties as may be assigned.

§ 49-3. Qualifications.

Any person appointed to the position of Senior Radio Dispatcher shall have, as a minimum, the following qualifications:

- A. One year of experience in performing radio dispatching work.
- B. Considerable knowledge of the laws, rules, regulations, standards, policies and procedures of the Federal Communications Commission.
- B. Ability to read, write, speak and understand English sufficiently to perform the duties of this position; to work harmoniously with others and to organize assigned work and develop effective work methods; to understand, remember and carry out oral and written directions; to learn quickly from written and oral explanations and demonstrations.
- D. Good health and freedom from disabling physical and mental defects which would impair the proper performance of the required duties or which might endanger the health and safety of oneself or others.

§ 49-4. Appointment.

The Borough Council shall, upon the recommendation of the Mayor, appoint one person to fill the position of Senior Radio Dispatcher.

Chapter 50

SEWERAGE AUTHORITY

ARTICLE I

Pequannock River Basin Regional Sewerage Authority

§ 50-1. Creation.

§ 50-2. Powers and duties.

§ 50-3. Appointment of members.

§ 50-4 Filling of provisions.

ARTICLE II

Service Contract With Pequannock, Lincoln Park and Fairfield Sewerage Authority

§ 50-5. Adoption of rules and regulations.

§ 50-6. Violations and penalties; Enforcement.

§ 50-7. Disposition of moneys.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

[Sewers — See Ch. 191.](#)

[Individual sewage disposal systems — See Ch. 260.](#)

ARTICLE I

Pequannock River Basin Regional Sewerage Authority ¹

[Adopted as Section 2-21 of the Revised General Ordinances of 1976]

§ 50-1. Creation.

Pursuant to the provisions of N.J.S.A. 40:14A-4, there is hereby created a public body corporate and politic under the name and style of the "Pequannock River Basin Regional Sewerage Authority."

§ 50-2. Powers and duties.

The Pequannock River Basin Regional Sewerage Authority is and shall be an agency and instrumentality of the participants created by parallel ordinances duly adopted by their governing bodies and is a sewerage authority as contemplated and provided for by the Sewerage Authorities Law and shall have and exercise all of the powers and perform all of the duties provided for by the Sewerage Authorities Law and any other statutes heretofore or hereafter enacted and applicable thereto.

1. Editor's Note: Ordinance No. 16-87, adopted 10-20-1987, provided as follows:

"NOW, THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Butler, County of Morris and State of New Jersey, that the agreement providing for the operation and maintenance of the various interceptor sewer lines located in the Boroughs of Butler and Bloomingdale, a copy of which is on file in the Clerk's Office, be executed by the Mayor and Clerk in accordance with the provisions of the law."

Said ordinance also superseded former Ord. No. 1-85, adopted 3-5-1985, which also authorized the Borough to enter into a new agreement with the Authority.

§ 50-3. Appointment of members.

The Pequannock River Basin Regional Sewerage Authority shall consist of six members thereof, who shall serve without salary, two of such members shall be appointed by the governing body of each of the participants, all in accordance with the provisions of N.J.S.A. 40:14A-4(c).

§ 50-4. Filling of provisions.

A copy of Ordinance No. 575² duly certified by the Borough Clerk shall forthwith be filed by the Borough Clerk in the office of the Secretary of State of the State of New Jersey.

ARTICLE II

**Service Contract With Pequannock, Lincoln Park and Fairfield Sewerage Authority
[Adopted 4-15-1986 by Ord. No. 7-86]****§ 50-5. Adoption of rules and regulations.**

The Mayor and Council of the Borough of Butler, in the County of Morris, State of New Jersey, as the governing body thereof, does hereby determine that there exists a need and a requirement to provide an efficient means for the enforcement of rules and regulations regulating the making of connection to and regulating the discharge into the primary sewer system operated by the Pequannock, Lincoln Park and Fairfield Sewerage Authority, pursuant to the provisions of N.J.S.A. 40:14A-23 and Section 701 of the service agreement between the Pequannock River Basin Regional Sewerage Authority and the Pequannock, Lincoln Park and Fairfield Sewerage Authority. The Borough of Butler hereby adopts said rules and regulations which are enumerated at length in a document entitled "Rules and Regulations Governing the Discharge of Sewage, Industrial Wastes or Other Wastes Into the Pequannock, Lincoln Park and Fairfield Sewerage Authority System and All Sewers Tributary Thereto," adopted on April 5, 1978, and amended January 11, 1984, by the Pequannock, Lincoln Park and Fairfield Sewerage Authority by resolutions.

§ 50-6. Violations and penalties; enforcement.

Any person, firm, partnership or corporation violating any rules, regulations or emergency proclamations of the Pequannock, Lincoln Park and Fairfield Sewerage Authority in the Borough of Butler shall be subject to punishment by imprisonment for not more than 90 days or a fine not to exceed \$500, or both, for each violation, and the Municipal Court of the Borough of Butler shall have jurisdiction in actions for the violation of such rules and regulations, which shall be enforced by like proceedings and processes as those provided by law for the enforcement of ordinances of the municipality. In the event of continuing violation, each day that the violation continues shall be deemed a separate and distinct violation. The officers authorized by law to serve and execute processes in the Municipal Court shall be the officers to serve and execute processes issued out of the Municipal Court

2. Editor's Note: Ordinance No. 575, adopted 5-6-1974, comprises this Art. I.

for violations of the rules and regulations of the Authority. The Executive Director of the Authority is hereby designated as the enforcement officer of this article.

§ 50-7. Disposition of moneys.

All moneys collected, either as fines or penalties, but not court costs, for any violations of the rules and regulations of the Authority under any provisions of this Article shall be forthwith paid over to the Authority by the custodian of municipal funds.

Chapter 54

RESERVED

[Lakeland Regional Solid Waste Management Authority: HISTORY: Adopted by the Mayor and Council of the Borough of Butler as section 2-22 of the Revised General Ordinances of 1976; amended in its entirety 3-15-1977 by Ord. No. 77-8. Dissolved 11-5-2012 by Ord. No. 2012-15]

Chapter 55

SPECIAL LAW ENFORCEMENT OFFICERS

§ 55-1. Term.

§ 55-2. Qualification requirements; appointment.

§ 55-3. Certification.

§ 55-4. Class One and Class Two officers.

§ 55-5. Carrying of firearms.

§ 55-6. Hours of work per week.

§ 55-7. Number of special law enforcement officers.

§ 55-8. Officers to be Borough residents.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 11-17-1986 by Ord. No. 22-86. Amendments noted where applicable.]

GENERAL REFERENCES

[Defense and indemnification — See Ch. 36.](#)

[Salaries and compensation — See Ch. 47.](#)

[Police Department — See Ch. 40.](#)

[Vehicles and traffic — See Ch. 225.](#)

§ 55-1. Term.

Special law enforcement officers shall be appointed for terms of one year, said appointment not to be revoked except for cause after adequate hearing.

§ 55-2. Qualification requirements; appointment. [Amended 5-3-1988 by Ord. No. 9-88]

- A. No person shall be appointed as a special law enforcement officer unless such person meets the qualification requirements of N.J.S.A. 40A:14-146.10. The Chief of Police shall submit candidates for appointment to the Borough Council. The eligibility and qualifications of such persons shall be reported to the Borough Council by the Chief of Police in accordance with N.J.S.A. 40A:14-146.10, Subdivision e.
- B. Appointment as a special law enforcement officer shall become effective upon passage of a resolution to that effect by the Borough Council.

§ 55-3. Certification.

No person shall commence serving as a special law enforcement officer unless he has been certified by the Police Training Commission as provided by N.J.S.A. 40A:14-146.11. Any special law enforcement officer appointed and in service on October 1, 1986, may continue in service if he will have completed training and certification requirements by October 13, 1988.

§ 55-4. Class One and Class Two officers.

Persons appointed as special law enforcement officers shall, upon appointment, be designated as either a Class One or Class Two special law enforcement officer. The classifications shall be based upon the following standards:

- A. Class One. Officers of this class shall be authorized to perform routine traffic detail, spectator control and similar duties and shall have the power to issue summonses for disorderly persons and petty disorderly persons offenses, violations of municipal ordinances and violations of Title 39 of the New Jersey Revised Statutes. The use of a firearm by an officer of this class shall be strictly prohibited, and no Class One officer shall be assigned any duties which may require the carrying or use of a firearm.
- B. Class Two. Officers of this class shall be authorized to exercise full powers and duties similar to those of a permanent, regularly appointed full-time police officer. The use of a firearm by an officer of this class may be authorized only after the officer has been fully certified as successfully completing training as prescribed by the Police Training Commission.

§ 55-5. Carrying of firearms.

The carrying of firearms by special law enforcement officers shall be strictly governed by N.J.S.A. 40A:14-146.14, Subdivision b.

§ 55-6. Hours of work per week.

No special law enforcement officer may work more than 20 hours per week, except as provided as follows:

- A. Without limitation as to hours during periods of emergency.
- B. A special law enforcement officer may be assigned for not more than 20 hours per week to provide public safety and law enforcement services to a public entity, in addition to not more than 20 hours per week performing the duties pursuant to this chapter.
- C. For hours to be determined by the Chief of Police while assigned to public safety duties for a private entity, pursuant to N.J.S.A. 40A:14-146.14, Subdivision b.

§ 55-7. Number of special law enforcement officers. [Amended 5-3-1988 by Ord. No. 9-88]

The number of special law enforcement officers in the Borough of Butler shall be determined by the Borough Council on the recommendation of the Chief of Police. The number of persons designated as Class Two special law enforcement officers shall not exceed 25% of the total number of regular police officers.

§ 55-8. Officers to be Borough residents.

All special law enforcement officers shall be residents of the Borough of Butler.

Chapter 56

BUTLER ALLIANCE COMMISSION

§ 56-1. Creation; membership.

§ 56-2. Powers and duties.

§ 56-3. Election of officers.

§ 56-4. Reports.

§ 56-5. Compensation.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 6-21-1988 by Ord. No. 18-88; amended in its entirety 5-16-2006 by Ord. No. 2006-14. Subsequent amendments noted where applicable.]

§ 56-1. Creation; membership.

A. A Butler Alliance Commission is hereby created in the Borough of Butler and shall consist of six persons, residents or employees of Butler, to be appointed by the Mayor with the consent of the Council.

B. Terms.

(1) The initial terms for said members shall be as follows:

Number of Members	Term of Appointment (years)
2	1
2	2
2	3

(2) After the initial appointments, all future appointments shall be for terms of three years.

§ 56-2. Powers and duties.

The powers and duties vested in the Commission shall include:

- A. To serve as a resource body for planning, developing and coordinating the implementation of programs focused on the problems experienced by our youth.
- B. Conduct research, gather information and disseminate results and/or findings.
- C. To serve as a liaison to governmental bodies and agencies.
- D. To make such recommendations as may be necessary to assist in the elimination of problems within the municipality.

- E. The Commission will act in a merely advisory capacity and shall not have the power to bind the municipality in any manner.
- F. Apply for and accept grants.

§ 56-3. Election of officers.

A Chairman, Vice Chairman, Coalition Coordinator and Secretary of the Commission shall be elected by the members of the Commission at an annual meeting during January of each year.

§ 56-4. Reports.

The Secretary of the Commission shall submit annual reports in writing to the Borough Clerk on or before October 1 of each year.

§ 56-5. Compensation.

The members of the Commission shall serve without compensation.

Chapter 58

WATER UTILITY

ARTICLE I

Personnel of Utility

§ 58-1. Creation of positions.

§ 58-2. Appointments.

§ 58-3. Duties and responsibilities.

§ 58-4. Qualifications of Chief Water Treatment Plant Operator.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

[Administration of government — See Ch. 4.](#)
[Department of Public Works — See Ch. 42.](#)

[Water — See Ch. 234.](#)

ARTICLE I

Personnel of Utility

[Adopted 6-21-1983 by Ord. No. 10-83]

§ 58-1. Creation of positions.

There is hereby created within the Water Utility of the Borough of Butler the following positions, and the employment of qualified persons to fill such positions is hereby authorized.

- A. Municipal Administrator.
- B. Chief Water Treatment Plant Operator.
- C. Water Treatment Plant Operator.
- D. Public Works Foreman.
- D. Assistant Public Works Foreman.
- F. Public Works Repairers and Senior Public Works Repairers.
- G. Laborers.

§ 58-2. Appointments.

- A. Appointment to the position of Municipal Administrator shall be in accordance with § 4-9B, Appointment, of the Code of the Borough of Butler.
- B. Appointment to the position of Chief Water Treatment Plant Operator shall be by the Mayor and Borough Council of the Borough of Butler. Said position shall be an unclassified position for purposes of civil service.

- C. The appointment to the positions of Water Treatment Plant Operator, public works repairers and laborers shall be in accordance with the rules and regulations as issued by civil service for said positions and shall be deemed to be classified positions.

§ 58-3. Duties and responsibilities.

- A. Municipal Administrator. The Municipal Administrator shall have the powers and duties as set forth in § 4-9H, Powers and duties, of the Code of the Borough of Butler. Specifically for purposes of the Water Utility, the Municipal Administrator shall give directives and orders to the Chief Water Treatment Plant Operator, who in turn shall report directly to the Municipal Administrator.
- B. Chief Water Treatment Plant Operator. The Chief Water Treatment Plant Operator shall report directly to the Municipal Administrator and shall carry out such directives and orders as may be given to him by the Municipal Administrator. In turn, the Chief Water Treatment Plant Operator shall have the authority to give directives and orders to all other persons employed within the Water Utility and shall have the authority and responsibility to direct their activities and to recommend to the Municipal Administrator promotions and disciplinary actions concerning these employees as he or she may deem appropriate.
- C. Water Treatment Plant Operator. The primary responsibility for the Water Treatment Plant Operator shall be to maintain the water treatment plant in good operating order, and he shall have immediate authority over all other persons employed by the Water Utility when they are working at or in connection with the Water Treatment Plant. The Water Treatment Plant Operator shall report directly to the Chief Water Treatment Plant Operator.
- D. The Public Works Foreman shall work in cooperation with the Chief Water Treatment Plant Operator, providing such resources as manpower and material for carrying out work determined necessary to the water system by the Chief Operator.
- E. The Assistant Public Works Foreman shall report directly to the Public Works Foreman directing and working with the various crews. The Assistant Public Works Foreman shall assume all duties of the Foreman in the absence of same.
- F. The senior public works repairers and public works repairers shall report directly to the Public Works Foreman or the Assistant Public Works Foreman, and their duties and functions shall be as set forth in their job descriptions by Civil Service.
- G. Laborers. Laborers shall report directly to the Public Works Foreman or Assistant Public Works Foreman, and their duties and functions shall be as set forth in their job description by Civil Service.

§ 58-4. Qualifications of Chief Water Treatment Plant Operator.

The Chief Water Treatment Plant Operator, in order to qualify for the position, shall have prior to his appointment those New Jersey water licenses referred to as W-1 and T-1.

Chapter 60

EMERGENCY MANAGEMENT

§ 60-1. Coordinator.

§ 60-2. Deputy Coordinator.

§ 60-3. Duties of Coordinator.

§ 60-4. Council.

§ 60-5. Duties of Council.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 4-19-1988 by Ord. No. 7-88. Amendments noted where applicable.]

GENERAL REFERENCES

[Interference with Borough officials — See Ch. 85.](#)

§ 60-1. Coordinator.

- A. The Mayor shall appoint a Municipal Emergency Management Coordinator from among the residents of the municipality. The Municipal Emergency Management Coordinator shall serve for a term of three years. The Municipal Emergency Management Coordinator shall have a minimum of one year's experience in the planning, development and administration of emergency response activities such as those provided by police, fire, rescue, medical or municipal emergency management units either in the public or private sector or in the military service.
- B. As a condition of appointment and the right to continue for the full term of the appointment, the Coordinator shall successfully complete the approved courses within one year of appointment. The failure of any Municipal Emergency Coordinator to fulfill such requirements within the period prescribed shall disqualify the Coordinator from continuing in the office of Coordinator, and thereupon a vacancy in said office shall be deemed to have been created. The Governor may remove a Municipal Emergency Management Coordinator at any time for cause. In such event, the Mayor shall appoint a new Municipal Emergency Management Coordinator with the approval of the Governor. If the Mayor shall not appoint a Municipal Emergency Management Coordinator within 10 days after such office shall become vacant, the Governor may appoint a temporary Municipal Emergency Management Coordinator who shall serve and perform all of the duties of that office until such time as a new Municipal Emergency Management Coordinator shall be appointed by the Mayor, with the approval of the Governor.

§ 60-2. Deputy Coordinator.

Each Municipal Emergency Management Coordinator shall appoint one and may appoint more than one Deputy Municipal Emergency Management Coordinator(s) with the approval of the Mayor. Whenever possible, such Deputy(ies) shall be appointed from among the salaried officers or employees of the municipality.

§ 60-3. Duties of Coordinator.

- A. The Municipal Emergency Management Coordinator shall be responsible for the planning, activating, coordinating and the conduct of municipal emergency management operations within the municipality.
- B. Wherever, in the opinion of the Municipal Emergency Management Coordinator, a disaster has occurred or is imminent in the municipality, the Municipal Emergency Management Coordinator shall proclaim a state of local disaster emergency within the municipality.
- C. The Municipal Emergency Management Coordinator, in accordance with regulations promulgated by the State Director of Emergency Management, shall be empowered to issue and enforce such orders as may be necessary to implement and carry out emergency management operations and to protect the health, safety and resources of the residents of the municipality.
- D. The County Emergency Management Coordinator shall be immediately advised of the proclamation of a state or local disaster emergency by the Municipal Emergency Management Coordinator and the action taken.
- E. The Municipal Emergency Management Coordinator shall also perform any of the duties and functions which may from time to time hereafter be required by statute.

§ 60-4. Council.

There is hereby created a Municipal Emergency Management Council to be composed of not more than 15 members who shall be appointed by the Mayor and shall hold office at the will and pleasure of the Mayor. The Municipal Emergency Management Coordinator shall be a member and shall serve as Chairman of the Municipal Emergency Management Council.

§ 60-5. Duties of Council.

- A. The Municipal Emergency Management Council shall:
 - B. Assist the Borough in establishing the various local volunteer and Borough agencies needed to meet the requirements of all local municipal emergency management defense and disaster control activities in accordance with the rules and regulations established by the Governor of the State of New Jersey.
 - C. Evaluate the need for resources to develop, implement and exercise the emergency plan. Make recommendations regarding what resources are required and how they can be provided.
 - D. Prepare and submit an emergency plan and annexes in conformance with the guidance materials provided by the County Coordinator.
 - E. Provide assistance to the Municipal Emergency Management Coordinator in the preparation of the emergency operations plans and annexes.

Chapter 65
(RESERVED)

[Former Ch. 65, Alarm Systems, adopted 7-21-1981 by Ord. No. 11-81, was repealed 3-21-2006 by Ord. No. 2006-4.]

PART II

GENERAL LEGISLATION

Chapter 67

ALCOHOLIC BEVERAGES

ARTICLE I

Sales

- § 67-1. Purpose.
- § 67-2. Word usage.
- § 67-3. Licenses.
- § 67-4. Hours; sale to certain persons.
- § 67-5. Persons under legal age for consumption.
- § 67-6. Revocation of licenses.
- § 67-7. Violations and penalties.

ARTICLE II

Consumption

- § 67-8. Definitions.
- § 67-9. Consumption in public streets and places.
- § 67-10. Consumption in automobiles.
- § 67-11. Special permit required.
- § 67-12. Violations and penalties.

ARTICLE III

Consumption by Minors

- § 67-13. Serving to minors prohibited.
- § 67-14. Violations and penalties.

ARTICLE IV

Possession or Consumption of Alcoholic Beverages by Underage Persons on Private Property Prohibited

- § 67-15. Possession or Consumption of Alcoholic Beverages by Underage Persons on Private Property Prohibited.
- § 67-16. Violations and Penalties.
- § 67-17. Exceptions.
- § 67-18. Definitions.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as indicated in article histories. Re-Adopted in its entirety 3-25-2018 by Ord. No. 2018-2; Amendments noted where applicable.]

GENERAL REFERENCES

[Licensing generally — See Ch. 150.](#)

[Parks and recreation areas — See Ch. 168.](#)

ARTICLE I

Sales**[Adopted as Ch. VI of the Revised General Ordinances of 1976]****§ 67-1. Purpose.**

This Article is enacted to regulate the sale and transportation of alcoholic beverages in the Borough of Butler in accordance with the provisions of an Act of the Legislature of the State of New Jersey, entitled "An Act Concerning Alcoholic Beverages," comprising Chapter 436 of the Laws of 1933, its supplements and amendments, and also comprising N.J.S.A. 33:1-1 et seq., and in accordance with the rules and regulations of the State Director of Alcoholic Beverage Control.

§ 67-2. Word usage.

For the purpose of this Article, words and phrases shall have the meanings given in N.J.S.A. 33:1-1 et seq. and the rules and regulations of the Director of Alcoholic Beverage Control.

§ 67-3. Licenses.

- A. Laws applicable. All applications for licenses, all licenses issued and all proceedings under this Article shall be in accordance with the Act, rules and regulations referred to in § 67-1 and all other applicable laws of the State of New Jersey or of the United States.
- B. Issuing authority. The Clerk of the Borough is authorized and empowered to issue licenses for the sale and distribution of alcoholic beverages in the Borough when such licenses shall have been approved by the Borough Council.
- C. License applications; provisions. No license shall be issued except after written application presented by the proposed licensee in such form and after such notice as required by N.J.S.A. 33:1-1 et seq. and upon complying with the provisions of this article. **[Amended 6-19-2001 by Ord. No. 2001-15]**
- D. License fees; maximum numbers. The annual license fees and maximum number of licenses for the sale or distribution of alcoholic beverages in the Borough shall be as follows: **[Amended 5-4-1981 by Ord. No. 81-8; 12-15-1992 by Ord. No. 1992-23; 4-16-2002 by Ord. No. 2002-13; 4-20-2004 by Ord. No. 2004-2; 5-2-2006 by Ord. No. 2006-12; 11-7-2011 by Ord. No. 2011-19; 11-9-2021 by Ord. No. 2021-20]**

Class of Annual Fee License

Plenary Retail Consumption \$2,072.90

Plenary Retail Distribution \$2,072.90

Club \$126.00

§ 67-4. Hours; sale to certain persons.

- A. Hours of sale. The holders of licenses in the Borough shall not sell, serve or give away alcoholic beverages on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday between the hours of 3:00 a.m. and 7:00 a.m. and on Sunday between the hours of 3:00 a.m. and 11:00 a.m., except as provided in Subsection B.
- B. Christmas Day and New Year's Day. The holders of licenses in this municipality shall not sell, serve or give away any alcoholic beverages on Christmas Day when it is a weekday, between the hours of 3:00 a.m. and 7:00 a.m.; on Christmas Day when it is a Sunday between the hours of 3:00 a.m. and 11:00 a.m.; on New Year's Day when it is a Sunday between the hours of 5:00 a.m. and 11:00 a.m.; but may sell, serve and give away alcoholic beverages on New Year's Day when it is a weekday at any time.
- C. Sale to certain persons. No licensee shall sell, serve or deliver, nor shall any licensee suffer or permit the sale, service or delivery of any alcoholic beverage, directly or indirectly, to any minor, mental defective, habitual drunkard or any intoxicated person, nor permit such persons to congregate in or about the licensed premises.

§ 67-5. Persons under legal age for consumption. [Amended 11-1-1982 by Ord. No. 13-82]

- A. Presence. No person under the legal age for the consumption of alcoholic beverages shall be allowed in any premises where alcoholic beverages are sold or served for consumption on the premises, except bona fide restaurants, unless accompanied by his parent or guardian.
- B. Purchase of alcoholic beverages by persons under the legal age. No person under the legal age for the consumption of alcoholic beverages shall consume purchase, attempt to purchase, or have another purchase for him any alcoholic beverage on any premises licensed for the sale of alcoholic beverages.
- C. Purchase of alcoholic beverages for persons under the legal age. No person shall purchase or attempt to purchase alcoholic beverages for a person under the legal age for the consumption of alcoholic beverages.
- D. Misstating age. No person shall misrepresent his age or the age of another person for the purpose of inducing any licensee or his employee to sell, serve or deliver any alcoholic beverage to a person under the legal age for consumption of alcoholic beverages or to permit a person under the legal age for the consumption of alcoholic beverages to remain on any premises in violation of Subsection A.

§ 67-6. Revocation of licenses.

- A. Any license issued under this Article may be suspended or revoked for violation of any of the provisions of this article or any provisions of any applicable statute or any of the rules or regulations of the State Director of Alcoholic Beverage Control.
- B. Proceedings for suspension or revocation shall be in accordance with the provisions of N.J.S.A. 33:1-31 by service of a five-day notice of charges preferred against the licensee and affording a reasonable opportunity for hearing.
- C. Suspension or revocation of a license shall be in addition to any other penalty which may be imposed for a violation of this Article.

§ 67-7. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this article shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

ARTICLE II
Consumption

[Adopted as Section 3-8A of the Revised General Ordinances of

§ 67-8. Definitions.

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

ALCOHOLIC BEVERAGES — Any fluid or solid capable of being converted into a fluid suitable for human consumption and having an alcoholic content of more than 1/2 of 1% by volume, including alcoholic beer, lager beer, ale, porter, naturally fermented wine, treated wine, blended wine, fortified wine, sparkling wine, distilled liquors, blended distilled liquors and any brewed, fermented or distilled liquors fit for use for beverage purposes or any mixture of such liquors and fruit juices.

§ 67-9. Consumption in public streets and places.

No person shall consume alcoholic beverages on any of the public streets, sidewalks, parking lots which are open to the public at large, whether publicly or privately owned, roadways, pathways, playgrounds, outdoor facilities owned or operated by the Board of Education of the Borough, parks or shopping plazas at any hour of the day or night unless a special permit is issued as provided herein.

§ 67-10. Consumption in automobiles.

No person shall consume alcoholic beverages while in any automobile, whether in motion or parked, on any of the public streets, sidewalks, parking lots which are open to the public at large, whether publicly or privately owned, roadways, pathways, playgrounds, outdoor facilities owned or operated by the Board of Education of the Borough, parks, shopping plazas or other thoroughfares open to general vehicular traffic in the Borough.

§ 67-11. Special permit required.

Notwithstanding the provisions contained in §§ 67-9 and 67-10, a special permit may be issued by the Mayor and Council of the Borough for the consumption of alcoholic beverages, which shall include terms and conditions as established by the Mayor and Council and shall specify the duration of the permit.

§ 67-12. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this article shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

ARTICLE III
Consumption by Minors
[Adopted 8-20-1985 by Ord. No. 85-12]

§ 67-13. Serving to minors prohibited.

- A. No person shall offer or serve an alcoholic beverage to a minor in any public or private place within the Borough, nor shall any person who has ownership or control of any premises, public or private, or supervision of any event permit, suffer or allow the consumption of an alcoholic beverage by a minor in or upon any such premises or at any such event within the Borough. This Article shall not apply to any person who is related to the minor by blood, marriage or adoption and who has no more remote relationship to such minor than first cousin.
- B. For the purposes of this section, "minor" is defined as any person below the legal age to purchase alcoholic beverages.

§ 67-14. Violations and penalties. [Amended 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this article shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

ARTICLE IV
**Possession or Consumption of Alcoholic Beverages by Underage Persons
on Private Property Prohibited.**
[Adopted 3-25-2018 by Ord. No. 2018-2]

§ 67-15. Possession or Consumption of Alcoholic Beverages by Underage Person on Private Property Prohibited.

It is hereby unlawful for any person under the legal age to, without legal authority, knowingly possess or knowingly consume an alcoholic beverage on private property.

§ 67-16. Violation and Penalties.

A. Any person found guilty of violating the terms of this ordinance shall be subject to a fine of \$250.00 for the first offense and a fine of \$350.00 for any subsequent offense. In addition, the court may, upon a finding of guilty, in addition to the fine authorized for this offense, suspend or postpone for six months the driving privileges of the defendant. Upon the conviction of any person and the suspension or postponement of that person's driver's license, the court shall forward a report to the Division of Motor Vehicles stating the first and last day of the suspension or postponement period imposed by the court pursuant to this section. If a person at the time of the imposition of a sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years. If the defendant at the time of the imposition of the sentence has a valid drivers license issued by this state, the court shall immediately collect the license and forward it to the Division of Motor Vehicles along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color, and sex of the person, as well as the first and last date of the license suspension period imposed by the court.

B. The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in N.J.S.A. 39:3-40. The defendant shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of the written notice shall not be a defense to a subsequent charge of a violation of N.J.S.A. 39:3-40.

C. If the person convicted under this ordinance is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the nonresident driving privilege of the person based on the age of the person and submit to the Division the required report. The court shall not collect the license of a nonresident convicted under this Article. Upon receipt of a report by the court, the Division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

§ 67-17. Exceptions.

A. This ordinance shall not prohibit an underage person from consuming or possession an alcoholic beverage in connection with a religious observance, ceremony, or rite or consuming or possessing an alcoholic beverage in the presence of and with the permission of a parent, guardian or relative who has attained the legal age to purchase and consume alcoholic beverages.

B. This ordinance shall not prohibit the possession of alcoholic beverages by any underage person while actually engaged in the performance of employment by a person who has licensed under Title 33 of the revised statutes, or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program at a county vocational school or post-secondary educational institution; however, this ordinance shall not be construed to preclude the imposition of a penalty under this section, N.J.S.A. 33:1-81, or any other section of law against a person who is convicted of unlawful alcoholic beverage activity on or at premises licensed for the sale of alcoholic beverages.

§ 67-18. Definitions.

As used in this section, the following terms shall have the meanings indicated.

GUARDIAN - means a person who has qualified as a guardian of the underage person pursuant to a testamentary or court appointment.

RELATIVE - means the underage person's grandparent, aunt or uncle, sibling, or any other person related by blood or affinity.

Chapter 68

CANNABIS

[Adopted 7-20-2021 by Ord. No. 2021-15; Amended 7-18-2023 by Ord. No. 2023-10]

ARTICLE I

Sales

- § 68-1. Purpose.
- § 68-2. Word usage.
- § 68-3. Licenses.
- § 68-4. Hours; sale to certain persons.
- § 68-5. Persons under legal age for consumption.
- § 68-6. Revocation of licenses.
- § 68-7. Violations and penalties.

ARTICLE II

Permitted License Type and Conditions for License

- § 68-8. License limited to Retail Establishments.
- § 68-9. Conditions for Issuance and Renewal of License.
- § 68-10. Taxation.

ARTICLE I

Sales

§ 68-1. Purpose.

This Article is enacted to regulate the sale of cannabis products within the Borough of Butler in accordance with the provisions of an Act of the Legislature of the State of New Jersey, entitled "New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act," P.L.2021, c.16 (hereinafter referred to as "Act") and its supplements and amendments.

§ 68-2. Word usage.

For the purpose of this Article, words and phrases shall have the meanings given in the Act.

§ 68-3. Licenses.

- A. Laws applicable. All applications for licenses, all licenses issued and all proceedings under this Article shall be in accordance with the Act, rules and regulations referred to in § 68-1 and all other applicable laws of the State of New Jersey.
- B. Issuing authority. The Clerk of the Borough is authorized and empowered to issue licenses for the retail sale of cannabis in the Borough in accordance with Chapter 150.
- C. License applications; provisions. No license shall be issued except after written application presented by the proposed licensee in such form and upon complying with the provisions of this Article.
- D. License fees: The initial license fee shall be \$1,000.00. The annual license fee shall be \$500.00.
- E. No more than three (3) licenses shall be issued and effective during any time period. No new licenses will be issued once there are three licenses.

§ 68-4. Hours; sale to certain persons.

- A. Hours of sale. The holders of licenses in the Borough shall not sell cannabis between the hours of 11:00 p.m. and 7:00 a.m.
- B. Sale to certain persons. No licensee shall sell, nor shall any licensee suffer or permit the sale, service or delivery of any cannabis product, directly or indirectly, to any minor under the age of 21 or any intoxicated person, nor permit such persons to congregate in or about the licensed premises.

§ 68-5. Persons under legal age for consumption.

- A. Presence. No person under the legal age of twenty-one (21) for the purchase of cannabis products shall be allowed in any premises where cannabis products are sold.
- B. Purchase of cannabis products by persons under the legal age. No person under the legal age for the consumption of cannabis products shall consume purchase, attempt to purchase, or have another purchase for him any cannabis product on any premises licensed for the sale of cannabis products.
- C. Purchase of cannabis products for persons under the legal age. No person shall purchase or attempt to purchase cannabis products for a person under the legal age for the consumption of cannabis products.
- D. Misstating age. No person shall misrepresent his age or the age of another person for the purpose of inducing any licensee or his employee to sell, serve or deliver any cannabis product to a person under the legal age for consumption of cannabis products or to permit a person under the legal age for the consumption of cannabis products to remain on any premises in violation of Subsection A.

§ 68-6. Revocation of licenses.

- A. Any license issued under this Article may be suspended or revoked for violation of any of the provisions of this Chapter or any provisions of any applicable statute or any of the rules or regulations of the State of New Jersey.
- B. Unless the immediate suspension is necessary for preservation of public safety, proceedings for the suspension or revocation of any license issued under this Article, shall be commenced by the service of a five-day notice of charges preferred against the licensee by the Clerk and affording a reasonable opportunity for a hearing before the Borough Council. Licenses may be suspended or revoked for any violation of this Chapter.
- C. Suspension or revocation of a license shall be in addition to any other penalty which may be imposed for a violation of this Article.
- D. Any license issued by the Borough of Butler under this Article shall be suspended and/or revoked upon the suspension and/or revocation of the licensee's license issued by the State of New Jersey and/or the New Jersey Cannabis Regulatory Commission.

§ 68-7. Violations and penalties.

Any person, firm, or corporation violating any of the provisions of this article shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

ARTICLE II

Permitted License Type and Conditions for License**§68-8. License limited to Retail Establishments.**

The class of cannabis license permitted in the Borough shall be for a Cannabis Retail Establishments and Medical Cannabis Dispensaries. No license for any other class of Cannabis establishment, including cannabis cultivators, manufactures, distributors, wholesalers, testing facilities, or delivery services, shall be available.

§68-9. Conditions for Issuance and Renewal of License.

In addition to the requirements as provided in Article I, the following conditions are required for the issuance and renewal of a Cannabis Retail Establishment license:

- A. Applicant must possess any and all required licenses, permits or authorizations from the State of New Jersey and/or the New Jersey Cannabis Regulatory Commission for the operation of a Cannabis retail Establishment.
- B. The Cannabis Retail Establishment shall be located in the HC Zone—Highway Commercial District.
- C. The Applicant has received conditional use approval from the Planning Board of the Borough of Butler.
- D. No on-premises consumption or use of cannabis shall be permitted.
- E. Only cannabis related products may be sold on-premises.
- F. Cannabis Retail Establishments must be equipped with security cameras with coverage of exterior parking and loading areas, points of entry and egress, areas open to the public, and cannabis storage areas. Security footage must be maintained for the period required by State law and be subject to immediate inspection and access by the Borough of Butler Police Department upon request.
- G. Cannabis Retail Establishments must prominently display signage indicating that no individual under the age of twenty-one is permitted on the premises and that the on-premises consumption or use of cannabis, food, alcohol, tobacco is prohibited.
- H. Any Cannabis Retail Establishment must possess and prominently display all licenses required by the State of New Jersey and the Borough of Butler for operation.
- I. Cannabis Retail Establishments must be equipped with lockable doors and windows and a security system with audible alarm and direct or third-party notification the Borough of Butler Police Department.

- J. All cannabis products and cash must be stored and secured in a locked safe or hardened container securely attached to the premises.
- K. Licensee shall be current on all State and municipal tax payments.
- L. The licensed premises must be open for business within 60 days of the issuance of a license.

§ 68-10. Taxation.

All Licensees under this Chapter shall be subject to quarterly remission of municipal taxes as required set forth in Article II of Chapter 210 and shall be compliant with the requirements therein.

Chapter 69

AMUSEMENTS

§ 69-1. Definitions.

§ 69-2. License requirements.

§ 69-3. Fees.

§ 69-4. Display of license; transferability.

§ 69-5. Prohibitions and restrictions.

§ 69-6. Gambling devices prohibited; seizure and destruction of machine.

§ 69-7. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 4-9 of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Bingo and raffles — See Ch. 82.](#)

[Pool and billiards — See Ch. 174.](#)

[Licensing generally — See Ch. 150.](#)

§ 69-1. Definitions. [Added 4-11-1990 by Ord. No. 1990-9¹]

As used in this chapter, unless the context otherwise indicates, the following terms shall have the meanings indicated:

DISTRIBUTOR OF MACHINE JUKEBOXES — Any person, firm, corporation, partnership or association which sets up for operation by another one or more music jukeboxes, whether such setting up for operation, leasing or distributing is for a fixed charge or retail or on the basis of a division of the income derived from such jukeboxes or otherwise.

DISTRIBUTOR OF MECHANICAL AMUSEMENT DEVICES — Any person, firm, corporation, partnership or association which sets up for operation by another one or more mechanical amusement devices, whether such setting up for operation, leasing or distributing is for a fixed charge or retail or on the basis of a division of the income derived from such mechanical amusement device or otherwise.

JUKEBOX — Any music-vending machine, contrivance or device which, upon the insertion of a coin, slug, token, plate, disc or key into any slot, crevice or other opening or by the payment of any price, operates or may be operated for the emission of song, music or similar amusement.

MECHANICAL AMUSEMENT DEVICE — Any machine which, upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as marble machines, mechanical bowling machines and all games, operations or transactions similar thereto under whatever name they may be indicated.

1. Editor's Note: This ordinance also repealed former § 69-1, Definitions.

OPERATOR — Any person in whose place of business any machine, jukebox or mechanical amusement device is played for public patronage or is placed or kept for operation by the public.

§ 69-2. License requirements.

A. Distributor of mechanical amusement devices.

- (1) License required. No distributor of mechanical amusement devices shall distribute to any person or to the owner, occupant, lessee or licensee of any premises in the Borough, for the purpose of operation thereof, any mechanical amusement devices without first having obtained from the Mayor and Borough Council a license to do so.
- (2) Application for license. In addition to the information required in § 150-2, Applications, of Chapter 150, Licensing, the application for the distributor of mechanical amusement devices shall contain the following information:
 - (a) If the applicant is an individual, the age, date and place of birth of the applicant. If the applicant is a firm, partnership or association, the names and addresses, ages, places of birth of all members of such firm, partnership or association. If the applicant is a corporation, the name and address of the registered agent, the addresses, ages and places of birth of all the stockholders of the corporation owning 10% or more of all of the issued and outstanding capital stock of the corporation.
 - (a) The particular number of mechanical amusement devices which the applicant will distribute in the Borough.

B. Distributor of machine jukeboxes.

- (1) License required. No distributor of machine jukeboxes shall distribute to any person or to the owner, occupant, lessee or licensee of any premises in the Borough, for the purpose of operation thereof, any machine jukeboxes without first having obtained from the Mayor and Borough Council a license to do so.
- (2) Application for license. The application for such license shall contain the information contained in § 150-2, Applications, of Chapter 150, Licensing, and Subsection A(1) of this section.

C. Operators.

- (1) License required. No operator shall display for public patronage or keep for operation any machine jukebox or mechanical amusement device without first having obtained a license to do so from the Mayor and Borough Council.
- (2) Application for license. The application for such license shall contain the information as required in § 150-2, Applications, of Chapter 150, Licensing, and Subsection A(1) of this section.
- (3) In addition to these provisions, the application shall also contain:

- (a) The place where machine or devices are to be displayed and a description of the type of business conducted at that place.
 - (b) A description of the machine to be covered by the license, mechanical features, name of manufacturer, serial number and the name and address of the owner of the machine.
- D. Age requirement of licensee. No license or licenses in this section provided for shall be issued to any applicant unless he is over 21 years of age and a citizen of the United States.

§ 69-3. Fees. [Added 4-11-1990 by Ord. No. 1990-9²]

A. Schedule of fees.

- (1) Fees for distributors of mechanical amusement devices and machine jukeboxes shall be fixed in accordance with the number of machines allowed to be distributed under the license and in accordance with the following schedule of fees:
 - (a) For each mechanical amusement device, annually: \$125.
 - (b) For each machine jukebox, annually: \$20.
- (2) Fees for operators of mechanical amusement devices and machine jukeboxes shall be fixed in accordance with the number of machines allowed under the license and in accordance with the following schedule of fees:
 - (a) For each mechanical amusement device, annually: \$125.
 - (b) For each machine jukebox, annually: \$10.
- (3) All license fees shall be payable upon the filing of the application. In the event that the application is denied, the fees shall be returned to the applicant, less 10% thereof, which shall be retained by the Borough to cover the costs of the investigation.
- (4) In the event that the operator of a machine or machines is also the owner thereof, he shall pay the operator fees as set forth above, and there shall be no distributor fees for such machines.

B. Exceptions.

- (1) There shall be no operator fee charged to veterans, charitable or religious organizations or service clubs.
- (2) If any of the organizations described in Subsection B(1) distribute a machine jukebox or mechanical amusement, they shall pay the full distributor's fee set forth in Subsection A(1) for each machine so distributed.

2. Editor's Note: This ordinance also repealed former § 69-3, Fees, as amended 12-6-1982 by Ord. No. 15-82.

- (3) Any distributor of a machine jukebox or mechanical amusement to any organization described in Subsection B(1) shall pay the full distributor's fee set forth in Subsection A(1).

§ 69-4. Display of license; transferability.

- A. All operator's license or licenses herein provided for shall be posted permanently and conspicuously at the location of the machine in the premises wherein the device is to be operated or maintained to be operated.
- B. Such license may be transferred from one machine or device to another similar machine upon application to the Borough Clerk to such effect and the giving of a description and the serial number of the new machine or device. Not more than one machine shall be operated under one license, and the applicant or licensee shall be required to secure a license for each and every machine displayed or operated by him.

§ 69-5. Prohibitions and restrictions.

- A. No operator holding a license to operate mechanical amusement devices shall permit persons under 16 years of age to play or operate such mechanical amusement device.
- B. No operator holding a license for the operation of a machine jukebox under this chapter shall permit the playing of jukeboxes between the hours of 3:00 a.m. and 9:00 a.m. on any day.
- C. No operator holding a license for the operation of jukeboxes or mechanical amusement devices shall permit the playing of jukeboxes or mechanical amusement devices within 200 feet of any church, public or parochial school or playground.
- D. No distributor or operator of mechanical amusement devices shall offer or permit to be offered any prize, free games or other reward to any person playing any machine required to be licensed by the provisions of this chapter.

§ 69-6. Gambling devices prohibited; seizure and destruction of machine.

- A. Nothing in this chapter shall, in any way, be construed to authorize, license or permit any gambling devices whatsoever, or any mechanism that has been judicially determined to be a gambling device, or in any way contrary to law or that may be contrary to any future laws of the State of New Jersey, including any mechanical amusement devices that dispense any kind of payoff, prize or reward.
- B. If the Chief of Police shall have reason to believe that any mechanical amusement device is used as a gambling device, such machine may be seized by the police and impounded, and, if upon trial of the operator for allowing it to be used as a gambling device, the operator is found guilty, such machine shall be destroyed by the police.

§ 69-7. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 72

ANIMALS

ARTICLE I

Rabies Control

§ 72-1. **Quarantine.**

§ 72-2. **Destruction of rabid animals.**

ARTICLE II

Impoundment Fees

§ 72-3. **Fees.**

§ 72-4. **Payment**

ARTICLE III

Animal Control Officer

§ 72-5. **Creation of office; term.**

§ 72-6. **Duties.**

ARTICLE IV

Wildlife Feeding

§ 72-7. **Purpose.**

§ 72-8. **Definitions.**

§ 72-9. **Prohibited conduct.**

§ 72-10. **Enforcement; violations and penalties.**

ARTICLE V

Pet Waste

§ 72-11. **Purpose.**

§ 72-12. **Definitions.**

§ 72-13. **Requirement for disposal.**

§ 72-14. **Exemptions.**

§ 72-15. **Enforcement; violations and penalties.**

ARTICLE VI

Pet Waste

§ 72-16. **Definitions.**

§ 72-17. **License Required.**

§ 72-18. **Application Information.**

§ 72-19. **Issuance of License, Expiration Date, Revocation.**

§ 72-20. **Restriction of Number of Kennels.**

§ 72-21. **Kennel and Pet Shop License Fees.**

§ 72-22. **Control of Dogs Off Premise.**

§ 72-23. **Report to State Health Department.**

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as indicated in article histories. Amended in its entirety 4-21-2020 by Ord. No. 2020-3; Amendments noted where applicable.]

GENERAL REFERENCES

[Cats — See Ch. 93.](#)
[Dogs — See Ch. 108.](#)

[Burial of dead animals — See Ch. 257, § 257-1.](#)

ARTICLE I
Rabies Control

[Adopted as Section 5-12 of the Revised General Ordinances of 1976]

§ 72-1. Quarantine.

Any domestic animal which bites a person shall be quarantined for 10 days. During quarantine, the animal shall be securely confined and kept from contact with any other animal outside of their immediate household. At the discretion of the Health Officer or Animal Control Officer the quarantine may be on the premises of the owner or the Animal Shelter or other approved licensed facility for a fee of \$25.00 per day. If the Health Officer or Animal Control Officer requires other confinement, the owner shall surrender the animal for the quarantine period to an animal shelter or shall, at his own expense, place it in a veterinary hospital with approval of the Health Officer.

§ 72-2. Destruction of rabid animals.

If a veterinarian suspects rabies in a domestic animal in quarantine, then the animal shall be humanely killed, and the head of such animal sent to a laboratory for pathological examination and confirmation of the diagnosis.

ARTICLE II

§ 72-3 Fees

A fee of \$30 shall be charged to the owner of any animal which is picked up by the Animal Control or police as a stray, and a fee of \$5 shall be charged to the owner per day for each night an animal is boarded at the municipal shelter.

§ 72-4. Payment.

The fees set forth in § 72-3 shall be paid by the owner of an animal prior to return, proof of ownership must be provided prior to return of said animal.

ARTICLE III

Animal Control Officer

[Adopted 5-5-1987 by Ord. No. 7-87]

§ 72-5. Creation of office; term.

The position of Animal Control Officer is hereby created. The Borough Council may contract for the services of the Animal Control Office.

§ 72-6. Duties.

The Animal Control Officer shall take into custody and impound or cause to be taken into custody and impounded and thereafter destroyed or disposed of as provided in this section:

A. Any dog off the premises of the owner of the person keeping or harboring said dog which said official or his agent or agents have reason to believe is a stray dog.

B. Any dog off the premises of the owner or of the person keeping or harboring said dog without current registration tag on his collar.

C. Any female dog in season off the premises of the owner or of the person keeping or harboring said dog.

D. Any dog or other animal which is suspected to be rabid.

E. Ill, injured or threatening dogs.

(1) Any dog or other animal off the premises of the owner reported to, or observed by, a certified Animal Control Officer to be ill, injured or creating a threat to public health, safety or welfare or otherwise interfering with the enjoyment of property.

(2) If any animal so seized wears a collar or harness having inscribed thereon or attached thereto the name and address of any person or a registration tag of the owner or the person keeping or harboring said animal is known, any person authorized by the governing body shall forthwith serve on the person whose address is given on the collar or on the owner or the person keeping or harboring said animal, if known, a notice in writing stating that the animal has been seized and will be liable to be disposed of or destroyed if not claimed within seven days after the service of the notice.

(3) A notice under this section may be served either by delivering it to the person on whom it is to be served, or by leaving it at the person's usual or last known place of abode or at the address given on the collar, or by forwarding it by post in a prepaid letter addressed to that person at his usual or last known place of abode or to the address given on the collar.

(4) When any dog so seized has been detained for seven days after notice, when notice can be given as above set forth, or has been detained seven days after seizure, when no notice has been given as above set forth, and if the owner or person keeping or harboring said dog has not claimed said dog and paid all expenses incurred by reason of its detention. No dog or other animal so caught and detained or procured, obtained, sent or brought to a shelter shall be sold or otherwise made available for the purpose of experimentation. Any person who sells or otherwise makes available any such dog or other animal for the purpose of experimentation shall be guilty of a disorderly persons offense.

(5) After observation, any animal seized under this section suspected of being rabid shall be immediately reported to the Health Officer.

F. The Animal Control Officer shall also have all such duties and authorities held by the Borough's Dog Warden

ARTICLE IV Wildlife Feeding

[Adopted 5-20-2003 by Ord. No. 2003-13; amended in its entirety 5-16-2006 by Ord. No. 2006-11]

§ 72-7. Purpose.

The purpose of this article is to prohibit the feeding of unconfined wildlife in any public park

§ 72-8. Definitions.

For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

FEED — To give, place, expose, deposit, distribute or scatter any edible material with the intention of feeding, attracting or enticing wildlife. Feeding does not include baiting in the legal taking of fish and/or game.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

WILDLIFE — All animals that are neither human nor domesticated

§ 72-9. Prohibited conduct.

A. No person shall feed, in any public park or on any other property either public or private in the Borough of Butler, any wildlife, excluding confined wildlife (for example, wildlife confined in zoos, parks or rehabilitation centers), or unconfined wildlife at environmental education centers.

B. No person shall feed wild geese, ducks or other waterfowl anywhere in the Borough, either on public or private property. This shall not be construed to prohibit humane acts in individual cases, such as the temporary nurturing of a wounded or abandoned waterfowl on one's own premises.

§ 72-10. Enforcement; violations and penalties.

A. This ordinance shall be enforced by Animal Control, the Health Department and the Police Department of Butler or any other designated official.

B. Any person found to be in violation of this ordinance shall be ordered to cease the feeding immediately subject to penalties. Any person, firm or corporation who is found to be in violation of any of the provisions of this article shall, upon conviction, be punished by a fine not to exceed \$1,000 or by imprisonment in the county jail for a period not to exceed 90 days, or by both such fine and imprisonment, and each violation of any of the provisions of this article and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

ARTICLE V

Pet Waste

[Adopted 5-16-2006 by Ord. No. 2006-11]

§ 72-11. Purpose.

The purpose of this article is to establish requirements for the proper disposal of pet solid waste in Borough of Butler, so as to protect public health, safety and welfare, and to prescribe penalties for failure to comply.

§ 72-12. Definitions.

For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

IMMEDIATE — The pet solid waste is removed at once, without delay.

OWNER/KEEPER — Any person who shall possess, maintain, house or harbor any pet or otherwise have custody of any pet, whether or not the owner of such pet.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

PET — A domesticated animal (other than a disability assistance animal) kept for amusement or companionship.

PET SOLID WASTE — Waste matter expelled from the bowels of the pet; excrement.

PROPER DISPOSAL — Placement in a designated waste receptacle, or other suitable container, and discarded in a refuse container which is regularly emptied by the municipality or some other refuse collector; or disposal into a system designed to convey domestic sewage for proper treatment and disposal.

§ 72-13. Requirement for disposal.

All pet owners and keepers are required to immediately and properly dispose of their pet's solid waste deposited on any property, public or private, not owned or possessed by that person.

§ 72-14. Exemptions.

Any owner or keeper who requires the use of a disability assistance animal shall be exempt from the provisions of this article while such animal is being used for that purpose.

§ 72-15. Enforcement; violations and penalties.

- A. This ordinance shall be enforced by Animal Control, the Health Department and the Police Department of Butler or any other designated official.
- B. Any person, firm or corporation who is found to be in violation of any of the provisions of this article shall, upon conviction, be punished by a fine not to exceed \$1,000 or by imprisonment in the county jail for a period not to exceed 90 days, or by both such fine and imprisonment, and each violation of any of the provisions of this article and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

ARTICLE VI

Kennels, Pet Shops, Shelters and Pounds

§ 72-16. Definitions.

KENNEL — Any establishment wherein or whereon the business of boarding or selling dogs or breeding dogs for sale is carried on, except a pet shop.

PET SHOP — Any room or group of rooms, cage or exhibition pen, not part of a kennel, wherein dogs and or cats for sale are kept or displayed.

POUND — An establishment for the confinement of dogs and or cats seized either under the provisions of this chapter or otherwise.

SHELTER — Any establishment where dogs and or cats are received, housed and distributed.

§72-17 License Required.

Any person who keeps or operates or proposes to establish a kennel, pet shop, shelter or a pound shall, in the case of a renewal of the license, apply to the Health Department. Application for the creation of new establishments shall be made to the Mayor and Council of the Borough. Any person holding such license shall not be required to secure individual licenses for dogs owned by such licensee and kept at such establishments. [Amended 12-21-1999 by Ord. No. 1999-27]

§72-18 Application Information.

Application information. The application shall describe the premises where the establishment is located or is proposed to be located, the purpose or purposes for which it is to be maintained and shall be accompanied by the written approval of an Officer of the Borough Health Department, showing compliance with the local and state rules and regulations governing location of and sanitation at such establishments.

§72-19 Issuance of License, Expiration Date, Revocation.

All licenses issued for a kennel, pet shop, shelter or pound shall state the purpose for which the establishment is maintained, and all such licenses shall expire on the last day of January of each year and be subject to revocation by the Mayor and Council on recommendations of the State Department of Health or the Board of Health of the Borough for failure to comply with the rules and regulations of the State Department of Health or the Board of Health of the Borough, governing the same after the owner has been afforded a hearing by either the State Department of Health or the Board of Health of the Borough.

§72-20 Restriction of Number of Kennels.

Restriction of the number of kennels in Borough. The number of kennel licenses issued and outstanding at the same time in the Borough shall not exceed two, provided that this provision shall not affect presently issued and outstanding licenses as to their renewal, transfer to another person or the renewal of the same by the transferee. Transfer of a license to different premises by a licensee or transferee may be effected upon approval by the Mayor and Council, as hereinbefore provided in the case of original applications relating thereto.

§72-21 Kennel and Pet Shop License Fees.

F. License fees for kennels and pet shops. The annual license fee for a kennel providing accommodations for five or fewer dogs shall be \$10; for more than five dogs, \$25. The annual license fee for a pet shop shall be \$10. No fee shall be charged for a shelter or a pound.

§72-22 Control of Dogs Off Premises.

No dog kept in a kennel, pet shop, shelter or pound shall be permitted off such premises, except on a leash or in a crate or other safe control, ie a physical leash or restraint.

§72-23 Report to State Health Department.

The Health Officer shall forward to the State Department of Health a list of all kennels, pet shops, shelters and pounds licensed within 30 days after the licenses therefor are issued, which list shall include the names and addresses of the licensees and the kind of license issued.

[Amended 12-21-1999 by Ord. No. 1999-27]

Chapter 77

CLOTHING BINS

- § 77-1. Permits Required.**
- § 79-2. Issuance of a permit**
- § 79-3. Permit Renewal**
- § 79-4. Display of information on bin.**
- § 79-5. Complaints**
- § 79-6. Penalties**

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 12-23-2008 by Ord. No. 2008-18. Amendments noted where applicable.]

§ 77-1 Permit required.

Notwithstanding any other provision to the contrary, no person shall place, use or employ a donation clothing bin, for solicitation purposes, unless all of the following requirements are met:

- A. The donation clothing bin is owned by a charitable organization registered with the Attorney General of the State of New Jersey pursuant to P.L. 1994, c. 16; and
- B. The registered charitable organization has obtained a permit for a period of one year, issued by the Borough Clerk upon the approval of the Borough Council.

§ 77-2 Issuance of permit.

- A. An application for a permit shall include the following information:
 - 1) The location where the bin would be situated, possible; as precisely as possible;
 - 2) The manner in which the charitable organization anticipates any other donations collected via the bin would be used, sold or dispersed, and the method by which the proceeds of collected donations would be allocated or spent;
 - 3) The name and telephone number of the bona fide office of the applicant and of any entity which may share or profit from any clothing or other donations collected via the bin;
 - 4) The schedule of pick-ups removing the articles from the bins, which can be no less often than once per week, and the name and telephone number of the person to be notified if the bin is overflowing prior to the scheduled date of pick-up; and
 - 5) Written consent from the property owner, or the owner's authorized representative, to place the bin on his/her property; and
 - 6) Proof of registration with the Attorney General as a charitable organization.
- B. The Council shall not grant an applicant for a permit to place, use, or employ a donation clothing bin if it determines that the placement of the bin could constitute safety hazard. Such safety hazards shall include, but are not limited to, the placement of a donation clothing bin in parking spaces, in any area that interferes with pedestrian or vehicular traffic, or any place which stores large amounts of, or sells, fuel or other flammable liquids or gases

C. The fee for such application for the permit shall be \$10.00 per organization.

§ 77-3 Permit renewal.

An expiring permit for a donation clothing bin may be renewed by a charitable organization on an annual basis upon payment of \$5.00 per organization. The application shall include the following information:

- A. The location where the bin is situated, as precisely as possible, and, if applicant intends to move it, the new location where the bin would be situated after the renewal is granted;
- B. The manner in which the entity has used, sold or dispersed any clothing or other donations collected via the bin, the method by which the proceeds of collected donations have been allocated or spent, and any changes the entity anticipates it may make in these processes during the period covered by the renewal;
- C. The name, and telephone number of the bona fide office of the applicant and any entity which shared or profited from any clothing or other donations collected via the bin, and of any entities which may do so during the period covered by the renewal;
- D. The schedule of pick-ups removing the articles from the bins, which can be no less often than once per week, and the name and telephone number of the person to be notified if the bin is overflowing prior to the date of pick-up;
- E. Written consent from the property owner, or the owner's authorized representative, to place the bin on his/her property; and
- F. Proof of charitable registration with the Attorney General as a charitable organization.

§ 77-4 Display of information in bin.

The following information shall be clearly and conspicuously displayed on the exterior of the donation clothing bin:

- A. The permit number and expiration date;
- B. The information required to be displayed on the bin in N.J.S.A. 40:48-2.61.

§ 77-5 Complaints.

- A. The Borough Council shall receive and investigate, within thirty (30) days, any complaints from the public about a clothing bin.

- B. Whenever it appears to the Borough Council that a person or entity has engaged in, or is engaging in any act or practice in violation of this ordinance, the entity who placed the bin shall be issued a warning, stating that if the violation is not rectified or if a hearing before the Borough Council is not requested within forty- five (45) days, the clothing bin will be seized or removed at the expense of the entity who placed the bin, and any clothing or other donations collected via the bin will be sold at public auction or otherwise disposed of.
- C. In addition to any other means used to notify the person or entity who placed the bin, such warning shall be affixed to the exterior of the bin itself. In the event that the entity who placed the bin does not rectify the violation or request a hearing within forty-five (45) days of the posting of the warning, the Borough Council may order the bin seized, remove it, or have it removed at the expense of the entity who placed the bin, and sell it at public auction or otherwise dispose of any clothing or other donations collected via the bin. Any proceeds from the sale of the donations collected via the bin shall be paid to the Chief Financial Officer of the Borough.

§ 77-6 Penalties.

In addition to any other penalties or remedies authorized by law, any person or entity who violates any provision of this ordinance shall be a) subject to a penalty of up to twenty thousand dollars (\$20,000.00) for each violation pursuant to N.J.S.A. 40:48-2.60 et seq. The Borough may bring this action in the Municipal Court or the Superior Court as a summary proceeding under the Penalty Enforcement Law of 1999. Any penalty moneys collected therefrom shall be paid to the Chief Financial Officer of the Borough. An entity violating this Chapter shall be deemed ineligible to place, use, or employ a donation clothing bin for solicitation purposes pursuant to N.J.S.A. 40:48-2.61 et seq. An entity disqualified from placing, using, or employing a donation clothing bin by violating the provisions of N.J.S.A. 40:48-2.60 et seq. may apply to the Borough Council to have eligibility restored. The Borough Council may restore the eligibility of an entity who a) acts within the public interest; and b) demonstrates that they have made a good faith effort to comply with the provisions of N.J.S.A. 40:48-2.60 et seq. and all other applicable laws and regulations and has no fraudulent intentions.

Chapter 78

FERTILIZER

§ 78-1. Definitions.

§ 78-2. Prohibited Conduct.

§ 78-3. Phosphorus Fertilizer Application.

§ 78-4. Enforcement.

§ 78-5. Violations and Penalties

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 12-19-2010 by Ord. No. 2010-2. Amendments noted where applicable.]

§ 78-1 Definitions.

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Ordinance clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

BUFFER - the land area, 25 feet in width, adjacent to any water body, except that the buffer may be reduced to 10 feet in width provided that a drop spreader is used for fertilizer application.

COMMERCIAL FARM - a farm management unit producing agricultural or horticultural products worth \$2,500 or more annually.

FERTILIZER - means a fertilizer material, mixed fertilizer or any other substance containing one or more recognized plant nutrients, which is used for its plant nutrient content, which is designed for use or claimed to have value in promoting plant growth, and which is sold, offered for sale, or intended for sale.

IMPERVIOUS SURFACE - a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water. This term shall be used to include any highway, street, sidewalk, parking lot, driveway, or other material that prevents infiltration of water into the soil.

PERSON - any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

PHOSPHORUS FERTILIZER - any fertilizer that contains phosphorus, expressed as P205, with a guaranteed analysis of greater than zero; except that it shall not be considered to include animal (including human) or vegetable manures, agricultural liming materials, or wood ashes that have not been amended to increase their nutrient content.

SOILS TEST- a technical analysis of soil conducted by an accredited soil testing laboratory following the protocol for such a test established by Rutgers Cooperative Research and Extension.

WATERBODY- a surface water feature, such as a lake, river, stream, creek, pond, lagoon, bay or estuary.

§ 78-2 Prohibited Conduct.

- A. Apply fertilizer when a runoff producing rainfall is occurring or predicted and/or when soils are saturated and a potential for fertilizer movement off-site exists.
- B. Apply fertilizer to an impervious surface. Fertilizer inadvertently applied to an impervious surface must be swept or blown back into the target surface or returned to either its original or another appropriate container for reuse.
- C. Apply fertilizer within the buffer of any waterbody.
- D. Apply fertilizer more than 15 days prior to the start of or at any time after the end of the recognized growing season (March 15 to October 31).

§ 78-3 Phosphorus Fertilizer Application.

No person may do the following:

- A. Apply phosphorus fertilizer in outdoor areas except as demonstrated to be needed for the specific soils and target vegetation in accordance with a soils test and the associated annual fertilizer recommendation issued by Rutgers Cooperative Research and Extension.
- B. Exceptions:
 - 1. Application of phosphorus fertilizer needed for:
 - a. establishing vegetation for the first time, such as after land disturbance, provided the application is in accordance with the requirements established under the Soil Erosion and Sediment Control Act, N.J.S.A. 4:24-39 et seq. and implementing rules, or
 - b. re-established or repairing a turf area.
 - 2. Application of phosphorus fertilizer that delivers liquid or granular fertilizer under the soils surface, directly to the feeder roots.
 - 3. Application of phosphorus fertilizer to residential container plantings, flowerbeds, or vegetable gardens.

§ 78-4 Enforcement.

This ordinance may be enforced by Police or other Borough Officials.

§ 78-5 Violations and Penalties.

Any person(s) found to be in violation of the provisions of this ordinance shall be subject to violations and penalties as provided for in Chapter 230.

Chapter 79

BICYCLES, MOTORIZED

- § 79-1. Definitions.
- § 79-2. Regulations.
- § 79-3. Safety devices.
- § 79-4. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 10-19-1976 by Ord. No. 76-15. Amendments noted where applicable.]

GENERAL REFERENCES

[Noise — See Ch. 160.](#)

[Vehicles and traffic generally — See Ch. 225.](#)

[Parks and recreation areas — See Ch. 168.](#)

§ 79-1. Definitions.

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

MOTORIZED BICYCLE — A pedal bicycle having a helper motor characterized in that either the maximum piston displacement is less than 50 cubic centimeters or said motor is rated at no more than 1.5 brake horsepower and capable of or designed for a maximum speed of no more than 25 miles per hour.

§ 79-2. Regulations.

The following regulations shall apply to the operation of motorized bicycles in the Borough of Butler:

A. Operation.

- (1) Every person riding a motorized bicycle upon a public roadway shall be subject to all of the duties applicable to such vehicles by the laws of New Jersey set forth in N.J.S.A. 39:4-14.3 and 39:4-10 et seq. Motorized bicycles shall not be used upon interstate and primary highways or upon the railroad or right-of-way of an operating railroad.
- (2) Motorized bicycles shall not be operated by a person under 15 years of age.
- (3) Every person operating a motorized bicycle shall at all times operate said motorized bicycle with due regard for the safety of other persons and vehicles lawfully upon the streets, highways and public places, as well as for his or her own safety, and shall at all times and under all conditions yield the right-of-way to pedestrians.

B. Signs.

- (1) Any person operating a motorized bicycle shall obey the instructions of official traffic control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.
- (2) Whenever authorized signs are erected indicating that no right or left or U-turn is permitted; no persons operating a motorized bicycle shall disobey the direction of any such sign, except where such person dismounts from the bicycle to make any such turn, in which event such person shall then obey the regulations applicable to pedestrians.

C. Method of riding.

- (1) A person propelling a motorized bicycle shall not ride other than astride a permanent and regular seat attached thereto.
- (2) No motorized bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

D. Riding on roadways.

- (1) Every person operating a motorized bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
- (2) Persons riding motorized bicycles upon a roadway shall ride in single file except on paths or parts of roadways set aside for the exclusive use of motorized bicycles.
- (3) Whenever a usable path for motorized bicycles has been provided adjacent to a roadway, motorized bicycle riders shall use such path and shall not use the roadway.

E. No person shall operate a motorized bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

F. The operator of a motorized bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk area and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on said roadway.

G. No person riding upon any motorized bicycle shall attach the same or himself to any streetcar or vehicles upon a roadway.

H. No person operating a motorized bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars, nor shall any person ride with his feet removed from the pedals or with both hands removed from the handlebars, nor shall any person engage in trick or fancy riding in the street.

I. No operator of a motorized bicycle shall leave a motorized bicycle lying or standing upon the sidewalk in such a manner as to hinder or impede pedestrians.

J. No person shall operate a motorized bicycle on any sidewalk or on any path or way designated as a bicycle route.

§ 79-3. Safety devices.

- A. Every motorized bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a lamp emitting a red light visible from a distance of 500 feet to the rear. In addition to the red lamp, a red reflector may be mounted on the rear, of a type approved by the Division of Motor Vehicles, which shall be visible from all distances from 50 to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle.
- B. No person shall operate a motorized bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least 100 feet, except that a motorized bicycle shall not be equipped with, nor shall any persons use upon a motorized bicycle any siren or whistle.
- C. Every motorized bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

§ 79-4. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 82

BINGO AND RAFFLES

§ 82-1. Purpose; statutory authority.

§ 82-2. Conditions for conducting games.

§ 82-3. Violations and penalties.

§ 82-4. Authority to approve the granting of raffle and bingo licenses.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 4-8 of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Amusements — See Ch. 69.](#)

[Licensing generally — See Ch. 150.](#)

§ 82-1. Purpose; statutory authority.

The Mayor and Borough Council have licensed various charitable and religious organizations to conduct raffles and bingo in the Borough in accordance with the provisions of the Bingo Licensing Law and the Raffles Licensing Law, N.J.S.A. 5:8-31 and 5:8-58.

§ 82-2. Conditions for conducting games.

Games of chance commonly known as "bingo" and "raffles" may be conducted in the Borough on the first day of the week commonly known and designated as Sunday, provided that the applicant for the license to conduct such game otherwise qualifies under the provisions of the aforementioned statutes of the state and the Rules and Regulations of the Legalized Games of Chance Control Commission, and specifically provided that the organization conducting the games is a charitable, religious or other organization specifically qualifying under the provisions of the aforementioned statutes.

§ 82-3. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

§ 82-4. Authority to approve the granting of raffle and bingo licenses. [Added 9-19-2006 by Ord. No. 2006-25]

The Borough Clerk is hereby delegated the authority to approve the granting of raffle and bingo licenses within the Borough of Butler.

Chapter 85

BOROUGH OFFICIALS, INTERFERENCE WITH

§ 85-1. Interference prohibited.

§ 85-2. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 3-12 of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Municipal Court — See Ch. 16.](#)

[Fire Department — See Ch. 21.](#)

[Board of Health — See Ch. 25.](#)

[Police Department — See Ch. 40.](#)

§ 85-1. Interference prohibited.

No person shall interfere with, hinder, disturb or obstruct the proceedings, functions or deliberations of the Borough Council, the Board of Health or any other official body of the Borough; nor shall any person molest, obstruct, hinder or interfere with any Borough officer or official engaged in the performance of his duty, or knowingly resist or oppose any person authorized by law to make arrests or to serve any writ, bill, order or process when the person so authorized is acting in the performance of his duty.

§ 85-2. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 86

BOROUGH FACILITIES/GROUP USE PERMITS

§ 86-1. Permit required.

§ 86-2. Application.

§ 86-3. Security deposit.

§ 86-4. Alcohol.

§ 86-5. Insurance.

§ 86-6. Granting of permit.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 6-16-1998 by Ord. No. 1998-8. Amendments noted where applicable.]

GENERAL REFERENCES

[Police Department — See Ch. 40.](#)

[Alcoholic beverages — See Ch. 67.](#)

§ 86-1. Permit required.

No private group or organization shall be permitted to utilize any Borough facility for group use unless and until a group use permit has been obtained from the Borough Clerk.

§ 86-2. Application.

An individual or group requesting a group use permit for Borough facilities shall file with the Borough Clerk an application seeking approval for the use. The application shall contain the following information:

- A. The name of the applicant.
- B. The address of the applicant.
- C. The telephone number of the applicant.
- D. The facility requested.
- E. The date on which the facility is requested.
- F. The type of event planned for the facility.
- G. The number of participants anticipated at the event.
- H. Whether any street will have to be closed in conjunction with the event.
- I. Whether special police assistance will be requested for the event.
- J. Whether alcohol will be consumed at the event
- K. Insurance information.

§ 86-3. Security deposit. [Amended 10-20-1998 by Ord. No. 1998-34]

A deposit of \$200 must accompany an application for a group use permit. The deposit shall be held as security for the complete clean-up of the facility following the permitted event. The Borough Clerk may waive the posting of a security deposit for any group which has established itself as responsible by utilizing the Borough facility on at least five prior occasions without incident.

§ 86-4. Alcohol.

The consumption of alcohol shall be prohibited in any municipal facility unless specific permission is obtained in conjunction with the permit and the Borough is provided with a copy of the applicable liquor license.

§ 86-5. Insurance.

An individual or group seeking a group use permit for the use of Borough facilities must provide the Borough with an insurance policy evidencing general liability insurance coverage in an amount of \$1,000,000.

§ 86-6. Granting of permit.

The Borough Council may grant a group use permit for the use of Borough facilities upon finding that the applicant has met the requirements contained in this chapter and that the issuance of the permit will not interfere with the necessary public use of the facility.

Chapter 89

BUILDINGS, NUMBERING OF

§ 89-1. Numbering system established.

§ 89-2. Designated numbers to be used.

§ 89-3. Incorrect numbers to be changed.

§ 89-4. Time limit for compliance.

§ 89-5. Determination of numbers.

§ 89-6. Rules for numbering.

§ 89-7. Size and location of number; responsibility for expense.

§ 89-8. Naming and renaming of streets.

§ 89-9. Violations and penalties; enforcement.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 12-1-1987 by Ord. No. 21-87. Amendments noted where applicable.]

GENERAL REFERENCES

[Land use — See Ch. 143.](#)

§ 89-1. Numbering system established.

There is hereby established a numbering system for buildings in the Borough of Butler, New Jersey, and any residents located on other private roads as of the effective date of this chapter.

§ 89-2. Designated numbers to be used.

It is hereby declared unlawful to use any new number on any building unless it is a number designated for use on the Borough Maps for that particular location of any such building.

§ 89-3. Incorrect numbers to be changed.

Any person, firm, association or corporation now the owner of any interest in a building, or who may hereafter acquire any such interest, is hereby charged with the obligation to change any number or numbers now in use on any such building if such numbers are inconsistent with the numbering system hereby established as contained on said maps. Such obligation shall continue as long as such ownership interest continues to exist, and it is hereby declared unlawful to use any number inconsistent with said system and maps if such use is continued for a period of 60 days following the notification as hereafter described.

§ 89-4. Time limit for compliance.

All number changes and assignments are to be made on or before six months following the effective date of this chapter. Notification shall be mailed, postage prepaid, to the assessed owner or owners as determined by the last official record of the Tax Assessor, and it shall contain a statement describing the proper number or numbers assigned to the building or lot, lots or area of land where the building is located. In the case of conflict as to the proper

number to be assigned to any building, the Borough Clerk shall determine the number of such building, and this decision shall be final. The mailed notice shall include an acknowledgement card to be returned to the office of the Borough Clerk by the owner as his acknowledgement and notice of compliance with this chapter.

§ 89-5. Determination of numbers.

- A. Whenever any house, building or structure shall be erected or located in this Borough after the establishment of the numbering system, in order to preserve the continuity and uniformity of members of the houses, buildings and structures, it shall be the duty of the owner to procure the correct number or numbers as designated from the office of the Borough Clerk for said property and to immediately affix said number or numbers so assigned for said buildings as provided by this chapter.
- B. No building permit shall be issued for any house, building or structure until the owner has procured from the office of the Borough Clerk the official number of said house, building or structure.
- C. All subdivisions shall have house numbers assigned prior to final approval. All such house numbers shall be shown on the site plan submitted for final approval.
- D. Any structure erected, repaired, altered or modified after the effective date of this chapter shall have the certificate of occupancy withheld by the Construction Official until permanent and proper numbers have been affixed.

§ 89-6. Rules for numbering.

The numbering of buildings shall begin at the base line or origin of the street, and allowance shall be made for future extension of the street and possible subdivision of lands fronting on the street. The direction of the street is determined by drawing a line on the map from the beginning of the street to the end of the street. If this line falls in the quadrant of northwest to northeast and/or southeast to southwest, the street will be considered as running in a north/south direction. If this line falls in the quadrant of northeast to southeast and/or northwest to southwest, the street will be considered as running in an east/west direction. In general, the following basic rules shall apply:

- A. For all streets running in a northerly or southerly direction, even numbers shall be assigned to the west side of the street and odd numbers to the east side.
- B. For all streets running in a westerly or easterly direction, even numbers shall be assigned to the north side of the street and odd numbers to the south.
- C. After issuance of a number, that number shall be used hereafter for the building on that location and no other number shall apply.

§ 89-7. Size and location of number; responsibility for expense.

- A. The numbers shall be a minimum of 2 1/2 inches in height, clearly visible on the background to which they are attached, and shall be located in a prominent place on the property so that they will be visible from the street.
- B. House numbers shall be procured and affixed at the owner's expense.

§ 89-8. Naming and renaming of streets.

The Council, at any time after the adoption of this chapter, may, by resolution, change, rename or name any street within the jurisdiction of the Borough.

§ 89-9. Violations and penalties; enforcement.

- A. Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler. **[Amended 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]**
- B. The Construction Official and the Police Department of the Borough of Butler shall be authorized to act as enforcement officers of this chapter.

Chapter 91

CANVASSERS, SOLICITORS AND PEDDLERS

- § 91-1. Statement of purpose.
- § 91-2. Definitions.
- § 91-3. Permit required.
- § 91-4. Application for permit.
- § 91-5. Investigation; issuance of permit.
- § 91-6. Exceptions from permit requirement.
- § 91-7. Rules and regulations.
- § 91-8. Expiration of permit.
- § 91-9. Fees
- § 91-10. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 12-10-1991 by Section 2 of Ord. No. 1991-18.1. ; amended 7-17-2018 by Ord. No. 2018-14. Amendments noted where applicable.

GENERAL REFERENCES

[Violations and penalties — See Ch. 230.](#)

§ 91-1. Statement of purpose.

This chapter is adopted with the intent to regulate the distribution of certain materials, peddling, soliciting and canvassing and related activities within the Borough of Butler, and the registration of individuals and organizations engaged in such activities is hereby deemed to be necessary so that the identity of persons going from door to door or soliciting within the municipality may be established; so that general regulations may be more effectively enforced for the protection and maintenance of the health, safety and welfare of the inhabitants of the Borough; and to prevent dishonest business practice and fraudulent solicitation of funds.

§ 91-2. Definitions.

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

PEDDLER — Includes any person, whether a resident of the Borough or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car or other vehicle or conveyance, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this chapter shall be deemed a "peddler," subject to the provisions of this chapter. The word "peddler" shall include the words "hawker" and "huckster."

1. Editor's Note: Section 1 of this ordinance repealed former Code chapters as follows: Ch. 171, Peddling and Hawking; Ch. 199, Soliciting and Canvassing; and Ch. 218, Transient Merchants.

SOLICITOR — A person, also known as a "canvasser," whether a resident of the Borough or not, traveling either by foot, automobile, motor truck or any other type of conveyance from place to place, from house to house or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery or for services to be furnished or performed in the future, whether or not the individual has, carries or exposes for sale a sample of the subject of the sale, with or without accepting an advance payment for the goods. The term "solicitor" shall also include any person who may be taking a poll or a survey from house to house or on the streets or distributing advertisements or handbills.

§ 91-3. Permit required.

No person shall canvass, solicit or peddle in any public or quasi-public place or call from house to house in the Borough or sell goods by sample or take orders for future delivery, whether or not they receive advance payments for goods, unless they first receive a written permit from the Borough Clerk as provided herein.

§ 91-4. Application for permit.

Every applicant for a permit under this section shall file with the Borough Clerk, at least two weeks prior to the date of solicitation, a sworn written application, in duplicate, on a form to be furnished by the Clerk, which shall give the following information:

- A. The name and a description of the applicant.
- B. The permanent home address and full local address of the applicant.
- C. A brief statement of the nature of the business and a description of the merchandise or service to be sold.
- D. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
- E. The length of time for which the permit is desired, which shall not exceed one year. If a vehicle is to be used, a description of such vehicle and its license number.
- F. The place where the goods or property to be sold or offered for sale are manufactured or produced, where such goods or property are located at the time such application is filed and the proposed method of delivery.
- G. Two photographs of the applicant taken within 60 days immediately prior to the date of the application, which photographs shall clearly show the head and shoulders of the applicant and shall measure two inches by two inches.
- H. A statement as to whether the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.
- I. Information sufficient to substantiate the identity of the applicant, such as picture identification, as well as the names of two persons who will certify as to applicant's good

character and business respectability or, in lieu of the names of references, such other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.

§ 91-5. Investigation; issuance of permit.

- A. The Borough Clerk shall forward a copy of each application to the Chief of Police, who shall review the application and conduct an investigation of the applicant.
- B. The Chief of Police shall, within 14 days of receipt of an application, notify the Borough Clerk of the results of his investigation.
- C. The Borough Clerk shall, upon payment of the fee as set out in § 91-9, issue a permit unless the investigation by the Chief of Police reveals any of the following:
 - (1) Fraud, misrepresentation or false statement contained in the application for permit.
 - (2) Conviction of any crime or misdemeanor involving dishonesty or other actions directly relevant to the applicant's fitness for a permit.
 - (3) Prior action taken by any governmental entity against the applicant for conducting the business of soliciting or canvassing in any unlawful or fraudulent manner.
- D. Any applicant denied a permit may appeal the denial to the Borough Administrator by serving notice on the Borough Clerk of the intent to appeal. The Borough Administrator shall then conduct a hearing on notice to all interested parties. The Borough Administrator shall order that a permit be issued to the applicant if he finds that the issuance of the permit will not compromise the purposes of this section.
- E. Each permit shall specify the number of days it shall be effective, and a copy of the permittee's photograph shall be attached to his permit. The permittee shall carry said permit and shall exhibit the permit to any policeman or other resident of the Borough of Butler upon request. The permittee shall advise the Police Department weekly of the specific location and/or locations that he or she intends to canvass that particular week. The person giving this information shall do so by telephone or in person to the Police Department, by giving his or her name, permit number, name of organization, if any, and specific location and/or locations that he or she or others shall canvass that particular week.

§ 91-6. Exceptions from permit requirement.

The requirement of obtaining a permit as set forth in § 91-4 shall not apply to the following:

- A. Nonprofit organizations.
 - (1) The permit requirement shall not apply to any charitable, religious, political or other nonprofit organization holding a tax exempt status under the Federal Internal Revenue Code of 1954, U.S.C. § 501(c) or (d), provided that there is filled out an

application, in writing, with the Township Clerk containing the following information:

- (a) The name and address of the organization.
 - (b) The purpose for which the special permit is required.
 - (c) The names and addresses of the officers and directors of the corporation.
 - (d) The period during which the solicitation is to be carried out.
- (2) Upon the filing of said application, the Borough Clerk shall issue a special permit, without charge, for the specified period. Persons soliciting on behalf of entities set forth in this section may do so upon receipt of the special permit, for which there shall be no charge.
- B. Any person honorably discharged from the military services of the United States possessing a peddler's license issued in conformity with N.J.S.A. 45:24-9 and 45:24-10.
 - C. Any person who is an exempt fireman of a volunteer fire department, as defined by N.J.S.A. 45:24-9 and 45:24-10, possessing a license in conformity with said law.
 - D. Any public utility or its employees, which said public utility is subject to regulation by the State Board of Public Utility Commissioners; provided, however, that such employee shall display the identification badge or card issued by his or her employer.
 - E. Any person engaged in the delivery of goods, wares or merchandise or other articles or things in the regular course of business to the premises of persons who had previously ordered the same or were entitled to receive the same by reason of a prior agreement.

§ 91-7. Rules and regulations.

Every person to whom a permit is issued under the terms of this chapter, including organizations identified in § 91-6A, shall be governed by the following rules and regulations:

- A. All circulars, samples, merchandise or other matters shall be handed to an occupant of the property or left in a secure place on the premises.
- B. No person subject to the provisions of this chapter shall canvass, solicit or peddle, except during the hours between 10:00 a.m. and 9:00 p.m., Monday through Sunday, unless by express invitation of the resident.
- C. No person subject to the provisions of this chapter shall enter or attempt to enter the house or apartment of any resident of the Borough of Butler without an express invitation from the occupant of said house or apartment.
- D. No person subject to the terms of this chapter shall have exclusive rights to any location in the public streets or operate in any congested area where his operation might impede the public.
- E. No person subject to the terms of this chapter shall make any solicitation within the Borough limits where solicitors are notified by sign that soliciting is prohibited or which

is contained on a list maintained by the Borough of residences not to be solicited. The Borough Clerk shall provide each person securing a permit or special permit with such list and shall take suitable steps to inform the residents of the Borough that they may be included on such list if they so choose.

- F. No person subject to the terms of this chapter shall litter the streets, public places or property within the Borough with any merchandise or printed material.
- G. No person shall draw attention to his or her business or to his or her merchandise by crying out, blowing a horn, ringing a bell other than the doorbell of a building or by any other loud or unusual noise.

§ 91-8. Expiration of permit.

Upon the expiration of the permit, the holder thereof shall surrender it to the Borough Clerk.

§ 91-9. Fees.

The fees for a permit under this chapter shall be \$50 per annum or \$15 per day.

§ 91-10. Violations and penalties. [Amended 4-18-2006 by Ord. No. 2006-7]

Any person who engages in any activity regulated under this chapter without obtaining a required permit or who engages in any activity in contravention of the rules and regulations contained in this chapter shall be subject to the penalties set out in Chapter 230, Violations and Penalties.

Chapter 93

CATS

- § 93-1. Licensing provisions.
- § 93-2. Fees.
- § 93-3. Record book.
- § 93-4. Failure to obtain license.
- § 93-5. Restrictions; standards.
- § 93-6. Impoundment; notice of seizure; destruction of certain cats.
- § 93-7. Nuisance or Injury to Person or Property prohibited.
- § 93-8. Enforcing Officer.
- § 93-9. Violations and Penalties.
- § 93-10. Rabies inoculation.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 5-11 of the Revised General Ordinances of 1976. Amended in its entirety 4-21-2020 by Ord. No. 2020-4; Amendments noted where applicable.]

GENERAL REFERENCES

[Animals generally — See Ch. 72.](#)
[Housing standards — See Ch. 136.](#)

[Licensing generally — See Ch. 150.](#)
[Littering — See Ch. 153.](#)

§ 93-1. Licensing provisions. [Amended 5-8-1990 by Ord. No. 1990-11]

- A. License required. No person shall own, harbor or maintain a cat of more than six months of age in the Borough unless the owner thereof or the person harboring or maintaining the cat shall have a valid or subsisting license for such cat.
- B. Application for license. Each application for a license under this section shall be signed by the owner or keeper of the cat and give the following information:
 - (1) A general description of the cat sought to be licensed, including breed, sex, age, color and markings.
 - (2) Name, street and post office address of the owner and of the person who shall keep and harbor such cat.
 - (3) Evidence of rabies vaccination in accordance with § 93-11.

§ 93-2. Fees. [Amended 9-24-1978 by Ord. No. 78-13; 9-15-1981 by Ord. No. 16-81; 6-7-1982 by Ord. No. 82-5; 4-17-1984 by Ord. No. 2-84]

- A. The annual license fee for cats over six months of age shall be as follows:
 - (1) For each cat: \$10.

(A) If accompanying the application for licensing a spayed or altered cat there shall be a certificate from a licensed veterinary surgeon showing that such cat has been spayed or altered to prevent procreation, the annual license fee shall be \$7. No license shall be granted for a period exceeding one year. All licenses are due on or before January 31, of the licensing year. No license shall be transferable.

B. All moneys collected will be deposited in the Borough Dog Fund.

§ 93-3. Record book. [Amended 4-17-1984 by Ord. No. 2-84]

License record. The information on the application and the license number issued for the cat shall be preserved for a period as prescribed by the State of New Jersey. In addition, he/she shall forward similar information to the State Department of Health, each month, on forms furnished by the Department. The Licensing Official shall keep a record showing the names of owners, custodians or harborers of cats, the description of each cat so owned or harbored, the date of the issuance of the license and the amount of the fee therefor.

§ 93-4. Failure to obtain license.

No cat shall be permitted to remain within the limits of the Borough unless licensed in the manner aforesaid. Any owner or keeper failing to have a cat or cats licensed in accordance with the terms of this chapter or otherwise failing to comply with these provisions shall be subject to the fine or penalty herein provided.

§ 93-5. Restrictions; standards.

No more than five cats shall be sheltered or kept by any one family group. No cat shall be sheltered or kept that is not domesticated. The quarters where cats are kept shall be clean and sanitary and such as not to create a health hazard or disturbance by reason of noise, odor or other causes.

§ 93-6. Impoundment; notice of seizure of certain cats.

A. Impoundment. The Animal Control Officer shall take into custody and impound or cause to be taken into custody or impounded or released to an owner or adopted or released to a rescue organization or euthanized at the discretion of Animal Control Officer.

- (1) Any cat off the premises of the owner or of the person keeping or harboring the cat,
which the Animal Control Officer has reason to believe is a stray cat.
- (2) Any female cat in season off the premises of the owner or of the person keeping or
harboring the cat.
- (3) Any cat which, upon complaint by one or more residents, shall be bothering,
disturbing or causing nuisance to such resident.

B. Notice of seizure.

- (1) If any cat so seized wears a collar or harness or microchip having inscribed thereon or attached thereto the name and address of any person or a registration tag, or the owner or the person keeping or harboring such cat is known, the Animal Control Officer shall forthwith serve on the person whose address is given on the collar or on the owner or the person keeping or harboring the cat, if known, a notice in writing that the cat has been seized and will be liable to be disposed of or destroyed if not claimed within seven days after the service of the notice. A notice under this section may be served either by delivering it to the person on whom it is to be served or by leaving it at the person's usual or last known place of abode or at the address given on the collar or by forwarding it by mail in a prepaid letter addressed to that person at his usual or last known place of abode or to the address given on the collar..
- (2) Nothing contained herein shall be deemed to require the placing of a collar on any cat.

C. Destruction of unclaimed cats. When any cat so seized has been detained for seven days after notice, when notice can be given as above set forth, or has been detained for seven days after seizure, when notice has not been and cannot be given as above set forth, and if the owner or person keeping or harboring such cat has not claimed the cat and paid all expenses incurred by reason of its seizure and detention, including maintenance at the prevailing rates charged per night, and if the cat is unlicensed at the time of the seizure and the owner or person keeping or harboring the cat has not claimed nor produced a license tag for the cat, and paid for its seizure, detention and maintenance as above set forth, the Animal Control Officer may cause the cat to be adopted or released to a rescue organization or euthanized at the discretion of Animal Control Officer

§ 93-7. Nuisance or Injury to Person or Property prohibited.

No person owning, keeping or harboring any cat shall permit or allow it to trespass, causing a nuisance on private property or do any injury to any person or to do any damage to any lawn, shrubbery, flowers, grounds or property.

§ 93-8. Enforcing officer.

Any humane or animal control officer shall have the authority in the enforcement of this chapter, and no person shall interfere with, hinder, molest or abuse any humane or animal control officer in the exercise of such powers.

§ 93-9. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

§ 93-10. Rabies inoculation. [Added 5-8-1990 by Ord. No. 1990-11]

- A. Inoculation required. No person shall own, possess, harbor or keep any cat within the boundaries of the Borough over six months of age, unless the cat has been inoculated against rabies. However, any cat may be exempt from the inoculation requirement, for a specified period of time, by the Board of Health upon the presentation of a certificate from a duly licensed veterinarian stating that because of infirmity or other physical condition, the inoculation of the cat for a specified period of time is contraindicated.
- B. Certificate. Any person owning, keeping, harboring or having custody of a cat shall obtain from the veterinarian who vaccinates the cat against rabies a certificate, within 10 days of the vaccination, or within 10 days after bringing the cat into the Borough if the cat was vaccinated before being brought into the Borough, deliver the certificate to the Licensing Department, where it shall remain on file as per the records retention requirements.
- C. Prerequisite to licensing. No license required for the owning and keeping of cats, by virtue of any state law or Borough ordinance, shall be issued to any person, unless a certificate issued by a duly licensed veterinarian, as provided in Subsection B, is presented to and filed with the office of the Licensing Department showing that such cat has been vaccinated against rabies in the manner provided herein and that the vaccination is valid through October 31 of the licensing year. A rabies medical exemption certificate issued by a duly licensed veterinarian may be accepted in lieu of a rabies vaccination certificate.
- D. Free vaccination. The Board of Health is hereby authorized and empowered to provide free vaccination of a cat at a suitable clinic and place designated by it, to be conducted by a licensed veterinarian of the State of New Jersey. The Department of Health is hereby further authorized and empowered to make and adopt such rules and regulations consistent with the terms and provisions of this section, as it may deem proper and necessary for its enforcement.
- E. Violation. Should any person owning a cat or cats omit or refuse to have the cat or cats inoculated under the provisions of Subsection A, then each day following the time when the inoculation should have been made as provided in this section shall constitute a separate offense.

Chapter 101

CONSTRUCTION CODES, UNIFORM

§ 101-1. Establishment of enforcing agency; composition; permits.

§ 101-2. Appeals.

§ 101-3. Fee schedule.

§ 101-4. Fire districts.

§ 101-5. Violations and penalties.

§ 101-6. Interpretation.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 3-15-1977 by Ord. No. 77-7. Amendments noted where applicable.]

GENERAL REFERENCES

[Fire prevention — See Ch. 122.](#)
[Housing standards — See Ch. 136.](#)

[Land use — See Ch. 143.](#)

§ 101-1. Establishment of enforcing agency; composition; permits.

Establishment of the Uniform Construction Code enforcement agency which shall enforce the terms and conditions of the State Uniform Construction Code as set forth in Chapter 217 of the Public Laws of 1975¹ and N.J.A.C. Title 5, Chapter 23, shall be as follows:

- A. Pursuant to P.L. 1975, c. 217, known as the "Uniform Construction Code Act of the State of New Jersey" (hereinafter referred to as "the Act"), there is hereby established in the Borough of Butler a State Uniform Construction Code enforcing agency to be known as the "Borough of Butler Building Department," consisting of a Construction Official, Building Subcode Official, Plumbing Subcode Official, Electrical Subcode Official and Fire Protection Subcode Official, which positions are hereby created. The Construction Official shall be the chief administrator of the enforcing agency. He shall have the power to overrule a determination of a subcode official based on an interpretation of a substantive provision of the subcode which such Subcode Official administers only if the Construction Official is qualified to act pursuant to the Act as a Subcode Official for such subcode. He may serve as Subcode Official of any subcode which he is qualified under the Act to administer. A Subcode Official or Municipal Engineer may serve as a Construction Official if otherwise qualified under the provisions of the Act. Subcode Officials or assistance staff may be employed on a full-time or part-time basis or hold other positions within the Borough of Butler.
- B. Each official position created in Subsection A hereof shall be filled by a person by resolution of the Mayor and Council in accordance with and as qualified for such position pursuant to P.L. 1975, c. 217, as amended, and N.J.A.C. 5:23, provided that, in lieu of any particular Subcode Official, an on-site inspection agency may be retained by contract pursuant to N.J.A.C. 5:23. More than one such official position may be held by

1. Editor's Note: See N.J.S.A. 52:27D-119 et seq.

the same person, provided that such person is qualified pursuant to P.L. 1975, c. 217, and N.J.A.C. 5:23 to hold each such position.

- C. The public shall have the right to do business with the Building Department of the Borough of Butler at its offices located in the Municipal Building, High Street, Butler, New Jersey, except for emergencies and unforeseen or unavoidable circumstances during regular business hours.
- D. Approval of applications for permits, expiration or cancellation of permits shall be as follows:
- (1) The enforcing agency shall examine each application for a construction permit. If the application conforms to the Act, the code and the requirements of other applicable laws, including the Zoning Ordinance,² administrative regulations and other ordinances, it shall be deemed a completed application, and the Construction Official shall approve the application and shall issue a construction permit to the applicant. Every completed application for a construction permit shall be granted, in whole or in part, or denied within 20 business days. If a completed application is denied in whole or in part, the Construction Official shall set forth the reason therefor in writing. If a construction official fails to grant, in whole or in part, or deny a completed application for a construction permit within the period of time prescribed herein, such failure shall be deemed a denial of the application for purposes of an appeal to the Construction Board of Appeals unless such period of time has been extended with the consent of the applicant in writing. The enforcing agency may approve changes in plans and specifications when so changed remain in conformity with law.
 - (2) A construction permit, issued in accordance with the foregoing provisions, pursuant to which no construction has been undertaken above the foundation walls within one year from the time of issuance, shall expire. The Construction Official may suspend, revoke or cancel a construction permit in case of neglect or failure to comply with the provisions of the Act or the code, or upon a finding by it that a false statement or representation has been made in the application for the construction permit.
 - (3) The enforcing agency shall have all other powers as enumerated in the Act or administrative regulations, adopted with reference thereto.

§ 101-2. Appeals.

Appeals from the decisions by the enforcing agency shall be made to the Construction Board of Appeals of the County of Morris.

2. Editor's Note: See Part 6, Zoning, of [Ch. 143, Land Use](#).

§ 101-3. Fee schedule. [Amended 2-21-1978 by Ord. No. 3-78; 2-2-1988 by Ord. No. 1-88; 11-18-1991 by Ord. No. 1991-16; 12-21-1999 by Ord. No. 1999-29]

- A. The fee for a construction permit shall be the sum of the subcode fees listed herein and shall be paid before the permit is issued.
- B. Building subcode fees. The fees for the building subcode shall be as follows:
- (1) New structure fees. New construction permit fees shall be based upon the volume of the structure with the fee being \$0.07 per cubic foot of building or structure. The minimum fee shall be \$50. **[Amended 7-20-2004 by Ord. No. 2004-7; 3-7-2006 by Ord. No. 2006-3]**
 - (2) Renovations, alterations, repair and minor work fees.
 - (a) Permit fees for renovations, alterations and repairs shall be based upon the estimated cost of the work. For the purpose of determining the estimated cost, the applicant shall submit to the entered agency, if available, cost data produced by the architect or engineer of record, or by a recognized estimating firm or by the contractor. A bona fide contractor's bid, if available, shall be submitted. The enforcing agency will make the final decision regarding estimated cost. The fee shall be as follows:
 - [1] Estimated cost up to \$50,000: \$18 per \$1,000.
 - [2] Portion of cost over \$50,001: \$9 per \$1,000.
 - (b) For combination of work involving new structures and existing structure work, the sum of fees are computed separately as renovations/alterations/repairs and volume fees.
 - (c) Installation or replacement of storage tanks up to 550 gallons for R-3/R-4: \$50.
 - (c) Installation of underground storage tank: \$85 per tank.
 - (d) Taking tank out of service, altering the piping or otherwise modifying any installation: \$18 per \$1,000 of estimated cost of removal.
 - (f) Minimum fee shall be \$50.
- C. Plumbing subcode fees.
- (1) Total number of fixtures: \$10 per fixture. Fixtures to include all fixtures, pieces of equipment or appliances connected to the plumbing system and for each appliance connected to the gas piping or oil piping system, except as indicated below.
 - (2) Total number of special devices: \$65 per device. Special devices include grease traps, oil separators, refrigeration units, utility service connectors, backflow preventors, (other than R-3/R-4), steam boilers, hot water boilers (excluding those for domestic water heating), active solar systems, sewer pumps, interceptors and fuel oil piping.

- (3) Minimum fee shall be \$50.

D. Electrical fees.

- (1) Electrical fixtures and devices* (first 50): fee is \$25.
- (2) Increments of 25 additional fixtures and devices: fee is \$6.

NOTES:

* Fixtures and devices to be counted for these items include lighting outlets, wall switches, smoke detectors, fluorescent fixtures, convenience receptacles or similar fixtures and motors or devices of one horsepower (HP) or one kilowatt (KW) or less.

- (3) For calculating the following electrical fees, all motors except those plug-in appliances shall be counted, including control equipment, generators, transformers, and all heating, cooking or other devices consuming or generating electrical current.
 - (a) Each motor or electrical device greater than one HP and less than or equal to 10 HP and for transformers and generators greater than 1 KW and less than or equal to 10 KW: fee is \$10 each.
 - (b) Each motor or electrical device greater than 10 HP and less than or equal to 50 HP for each service panel, service entrance or subpanel less than or equal to 200 amperes and for all transformers and generators greater than 10 KW and less than or equal to 45 KW and for each utility load management device: fee is \$30 each.
 - (c) Each motor or electrical device greater than 50 HP and less than or equal to 100 HP, for each service panel, service entrance or subpanel less than or equal to 200 amperes and for all transformers and generators greater than 45 KW and less than or equal to 112.5 KW: fee is \$95 each.
 - (d) Each motor or electrical device greater than 100 HP, for each service panel, service entrance or subpanel greater than 1,000 amperes and for each transformer or generator greater than 112.5 KW: fee is \$460.

- (4) Minimum fee shall be \$50.

E. Asbestos abatement fee. The fee shall be \$70 plus certificate of occupancy fee of \$15.

F. Standpipe fee. Number of standpipes fee is \$230 each.

G. Fire equipment and hazardous equipment.

- (1) Smoke detectors, heat detectors and carbon monoxide detectors:
 - (a) One to 12 detectors: \$25.
 - (b) Each additional 10 detectors: \$10 per increment of 10.

- (2) Sprinkler heads:
 - (a) One to 20 heads: \$65.
 - (b) Twenty-one to 100 heads: \$120.
 - (c) One hundred one to 200 heads: \$230.
 - (d) Two hundred one to 400 heads: \$600.
 - (e) Over 400 heads: \$900.
 - (3) Independent pre-engineered systems: \$100 per system.
 - (4) Gas- or oil-fired appliance which is not connected to plumbing system: \$50 per appliance.
 - (5) Kitchen exhaust system: \$50 per system.
 - (6) Incinerators: \$65 per incinerator.
 - (7) Crematoriums: \$365 per crematorium.
- H. Demolition or removal permits.
- (1) For a structure less than 5,000 square feet in area and less than 30 feet in height, or for one- or two-family residences (R-3, R-4 use) and for structures on farms: fee of \$65.
 - (2) All other structures: fee of \$120.
- I. Signs. Two dollars per square foot of sign. (Double-faced signs fee will be based on one side of face) Minimum fee is \$35.
- J. Certificate of occupancy fees.
- (1) The fee shall be set in the amount of 10% of permit fees for new structures, with minimum of \$35 and maximum of \$200.
 - (2) The fee for a certificate of occupancy granted pursuant to a change of use group shall be \$220.
 - (3) The fee for a certificate of continued occupancy issued for all uses except R-3 under N.J.A.C. 5:23-2.23c shall be \$200. The fee for R-3 uses shall be \$100.
- K. Variation. The fee for an application for a variation in accordance with N.J.A.C. 5:23-2.10 shall be \$600 for Class I structures, \$120 for Class II structures, and \$65 for Class III structures.
- L. Lead hazard abatement.
- (1) The fee for lead abatement shall be \$140.
 - (2) The fee for lead abatement clearance certificate shall be \$30.

M. Zoning permits. The fee for zoning permits shall be as follows: **[Amended 2-18-2003 by Ord. No. 2003-2; 6-26-2016 by Ord. No. 2016-14]**

- (1) Minor residential alteration.
 - (a) Sheds under 200 square feet, fences six feet in height or less, air condition condensers, stand-by generators, and driveways: \$10.
 - (b) Decks, Swimming Pools, Hot Tubs: \$25.
- (2) Residential additions or alterations, garages and accessory buildings: \$35.
- (3) New single/two-family dwelling construction: \$50.
- (4) Minor alterations to nonresidential structures [Signs, Awnings]: \$25.
- (5) Alterations to nonresidential structures, new accessory buildings: \$75.
- (6) New nonresidential structure construction, or addition to existing structure: \$100.
- (7) Change of occupancy.
 - (a) Nonresidential: \$100. Late fee if application not received within thirty days of occupancy: \$25.
 - (b) Residential, per dwelling unit: \$100. Re-inspection fee due to inspection failure: \$25 for each re-inspection.
 - (c) Residential apartment: \$75. Late fee if application not received within thirty days of occupancy: \$15; if not received within ninety days of occupancy: \$35.
- (9) Certificate of nonconformity.
 - (b) Zoning Officer issued: \$100.
 - (c) Zoning Board of Adjustment issued: \$200.

N. Miscellaneous fees.

- (1) For cross connections, backflow preventors, public swimming pools, public spas and public hot tubs that are subject to testing and require annual inspections the fee shall be \$45.
 - (2) In the case of discontinuance of work, all completed work will be computed. Any excess work will be refunded except 25% of excess for cost of permit fees and refunding.
 - (3) All suspensions of permits pursuant to N.J.A.C. 5:23-2.16(b) will not be refundable in whole or in part.
 - (4) The replacement of residential one- and two-family dwelling mechanical equipment shall be a total of \$50 total for all subcodes combined.
 - (5) Fees for fences, sheds or swimming pools shall be \$15.
 - (6) The fee for a continued certificate of occupancy permit, C.C.O., for zoning shall be \$50. **[Added 9-19-2000 by Ord. No. 2000-20]**
- O. State training fees. Fees shall be pursuant to current regulations of N.J.A.C. 5:23-4.19.
- P. Engineering fees. Fees for engineering review: cost of work performed up to \$300.
- Q. Special off-hours inspection fees. Fees to be determined by the Construction Official prior to any inspection and to be determined based on request.

§ 101-4. Fire districts. [Amended 8-18-1981 by Ord. No. 15-81]

Pursuant to N.J.A.C. 5:23-47, the fire limits as disclosed on the attached map entitled "Fire Limit District, Borough of Butler, Morris County, New Jersey, March 1981" prepared by Hirth Weidener Associates, which map is hereby adopted and incorporated herein,³ are hereby established.

§ 101-5. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

§ 101-6. Interpretation.

The powers enumerated in the Act shall be interpreted broadly to effectuate the purposes thereof.

3. Editor's Note: Said map disclosing the fire limits in the Borough of Butler is on file in the office of the Borough Clerk and may be examined there during regular office hours.

Chapter 101A CURFEW, JUVENILE

§ 101A-1. Definitions.

§ 101A-2. Unlawful actions.

§ 101A-3. Exceptions.

§ 101A-4. Violations and penalties.

§ 101A-5. Custody.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 7-19-1994 by Ord. No. 1994-7. Amendments noted where applicable.]

§ 101A-1. Definitions.

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

GUARDIAN — A person, other than a parent, to whom legal custody of the juvenile has been given by court order or who is acting in the place of the parent and is responsible for the care and welfare of the juvenile.

JUVENILE — An individual who is under the age of 17 years.

PUBLIC PLACE — Any place to which the public has access, including but not limited to a public street, road, thoroughfare, sidewalk, bridge, alley, plaza, park, recreation or shopping area, public transportation facility, vehicle used for public transportation, parking lot or any other public building, structure or area.

§ 101A-2. Unlawful actions.

- A. It shall be unlawful for a juvenile to be on any public street or in any public place between the hours of 10:00 p.m. and 6:00 a.m. unless accompanied by the juvenile's parents or guardian or unless engaged in or traveling to or from a business or occupation which the laws of this state authorize a juvenile to perform.
- B. It shall be unlawful for any parent or guardian to allow an unaccompanied juvenile to be on any public street or in any public place between the hours of 10:00 p.m. and 6:00 a.m. unless the juvenile is engaged in or traveling to or from a business or occupation which the laws of this state authorize a juvenile to perform.

§ 101A-3. Exceptions.

This chapter shall not apply to any juvenile who can establish that he or she is:

- A. Engaged in an errand involving a medical emergency.
- B. Attending an extracurricular school activity.
- C. Attending an activity sponsored by a religious or community-based organization.

- D. Attending other cultural, educational and social events that are sponsored by a religious or community-based organization.

§ 101A-4. Violations and penalties. [Amended 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

§ 101A-5. Custody.

Whenever any juvenile is engaged in conduct in violation of this chapter, the police of the Borough of Butler are hereby authorized and empowered to take such juvenile into custody in accordance with the laws of the State of New Jersey.

Chapter 102

DISPLAY OF SEXUALLY EXPLICIT MATERIALS

§ 102-1. Purpose.

§ 102-2. Definitions.

§ 102-3. Restrictions.

§ 102-4. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 6-13-1989 by Ord. No. 22-89. Amendments noted where applicable.]

§ 102-1. Purpose.

The purpose of this chapter is to regulate the public display of sexually explicit obscene materials, particularly where such materials are likely to be viewed by minors.

§ 102-2. Definitions.

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

RETAILER — Any person who operates a store, newsstand, booth, concession or similar business with unimpeded access for persons under 18 years old, who is in the business of making sales of periodicals or other publications at retail containing pictures, drawings or photographs.

OBSCENE MATERIAL — Any description, narrative account, display or depiction of a specified anatomical area or specified sexual activity contained in or consisting of a picture or other representation, publication, sound recording, live performance or film which, by means of posting, composition, format or animated sensual details, emits sensuality with sufficient impact to concentrate prurient interest on the area or activity. It is essential that to be considered obscene, it must be established that:

- A. The dominant theme of the material taken as a whole appeals to the prurient interest;
- B. The material is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters; and
- C. The material is utterly without redeeming social value, or the work taken as a whole lacks serious artistic, literary, political or scientific value.

§ 102-3. Restrictions.

- A. It shall be a violation of this chapter for a retailer to display or permit to be displayed at his business premises any obscene material, as defined herein, at a height of less than five feet or without a binder or other covering placed or printed on the front of the material displayed.

- B. The public display of obscene material as prohibited above on or at the premises of the retailer shall constitute presumptive evidence that the retailer knowingly made or permitted the display.

§ 102-4. Violations and penalties. [Amended 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 105

DEALERS IN PRECIOUS METALS, GEMS AND SECONDHAND GOODS

- § 105-1. Purpose and Intent.
- § 105-2. Definitions.
- § 105-3. Registration and Issuance of License.
- § 105-4. License Fees; Non-Transferability.
- § 105-5. Revocation of License.
- § 105-6. Dealers' Responsibilities, Requirements and Recordkeeping.
- § 105-7. Non-Applicability.
- § 105-8. Purchases from Minors.
- § 105-9. Violations and Penalties.
- § 105-10. Appendix.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 5-22-2016 by Ord. No. 2016-5. Amendments noted where applicable.]

§ 102-1. Purpose and Intent.

The purpose and intent of this Chapter is to assist law enforcement officials and victims of crime in recovering stolen precious metals, gems, gemstones and/or other articles by requiring reasonable reporting, maintenance and distribution criteria for secondhand and transient Dealers. No person shall use, exercise or carry on the business, trade or occupation of buying, receiving, receiving for pawn or selling of any property described in Appendix I of this Chapter, or operate as a Dealer of said property within the Borough of Butler, without having first obtained a license from the Borough of Butler Police Department as hereinafter provided.

105-2. Definitions. For the purposes of this Chapter, the following terms, phrases, words and their derivations shall have the meanings ascribed herein. Words used in the present tense shall include the future, words in the plural number shall include the singular number and words in the singular number shall include the plural number. The word "shall" is always mandatory and not merely directory.

ACCEPTABLE IDENTIFICATION - Acceptable forms of identification include: a current valid New Jersey Driver's License or Identification Card issued by the NJ Motor Vehicle Commission, a current valid photo driver's license issued by another US state, other verifiable United States government issued photo identification with address, or valid United States Passport and evidence of current address. All of the above listed identification procedures require the Dealer to capture/record evidence of the person's current address.

ARTICLE - Any article of merchandise, including any portion of such article, whether a distinct part thereof or not, including every part thereof whether separable or not, and also including material for manufacture, and as so defined in N.J.S.A. 51:6-1.

CHIEF OF POLICE – The Chief of Police of the Borough of Butler or his designee/representative.

DATABASE - A computerized internet capable database with hardware and software compliant with standards set by the Chief of Police.

DEALER - Any person, partnership, corporation, or other entity, whether permanent or itinerant, who on one or more occasions (through any means) buys or sells, receives for pawn or otherwise exchanges or trades any property as described in Appendix I of this Chapter, and includes anyone advertising the purchase, sale or receipt for pawn of any of the aforementioned items.

GIFT CARD - Is a restricted monetary equivalent or scrip that is issued by retailers or banks to be used as an alternative to a non-monetary gift.

ITINERANT BUSINESS - Any business conducted intermittently within the Borough of Butler at varying locations.

PAWN - A bailment of personal property as security for any debt or engagement redeemable upon certain terms and with the implied power of sale or default.

PERSON - Any individual natural person, partnership, joint venture, business, society, associate, club, trustee, trust, corporation, or unincorporated group, or an officer, agent, employee, servant, factor or any form of personal representative of any thereof, in any capacity, acting for self or on behalf of another.

PRECIOUS METALS - Comprised of gold, silver, sterling, platinum and/or their alloys as defined in N.J.S.A. 51:5-1 et seq., N.J.S.A. 51:6-1 et seq. and/or N.J.S.A. 51:6A-1 et seq.; gems, gemstones, coins and all forms of jewelry herein contained.

PUBLIC - Individuals and other retail sellers, not to include businesses engaged primarily in wholesale transactions.

PURCHASE - The exchange of money or other consideration for the pledge, sale, conveyance or trade of any property described in Appendix I of this Chapter.

REPORTABLE TRANSACTION - Every transaction conducted by a Dealer in which property described in Appendix I of this Chapter is purchased, pawned or exchanged from or with the public, as that term is defined in this Section.

SECONDHAND GOODS - Any article previously sold, acquired, exchanged, conveyed, traded or otherwise formerly owned, including but not limited to scrap gold, old gold, silver, jewelry, home electronics/audio and visual equipment, musical instruments, telephones and telephonic equipment, scales, computers, computer hardware and software, typewriters, word processors, scanners, sporting goods of all kinds, antiques, platinum, all other precious metals, tools of all kinds, televisions, DVRs, GPS, camcorders, car stereos, gift cards, furniture, clothing, other valuable articles, or as listed in Appendix I.

TRANSIENT BUYER - A Dealer who has not been in any retail business continuously for at least six (6) months at that address in the municipality where the Dealer is required to register. The term Transient Buyer will also include a Dealer who intends to close out or discontinue all retail business in the Borough of Butler within six (6) months. Or as so defined in N.J.S.A. 51:6A-5 and N.J.A.C. 13:47C-1.1. Vendors doing business during a Community Event sponsored/sanctioned by the Borough of Butler shall not be considered a Transient Buyer.

105-3. Registration and Issuance of License.

Every Dealer conducting business or intending to conduct business within the jurisdiction of the Borough of Butler shall first register with the Chief of Police, who shall fingerprint the applicant and institute such an investigation of the applicant's moral character and business responsibility as he deems necessary for the protection of the public welfare. In the event that the Dealer is a business entity other than a sole proprietorship, the officers in a corporation or the partners in a partnership (or limited partnership) shall be deemed to be the applicant (s) who shall be fingerprinted and investigated in accordance with this Chapter. Upon completion of the investigation, the Chief of Police shall either issue or deny the license based upon the results of his investigation. Upon issuance of the license, the applicant shall be given a copy of this Chapter.

105-4. License Fees; Non-Transferability.

1. Prior to final issuance of a license, a fee of \$300.00 shall be paid to the Borough of Butler.
2. A license issued under the provisions of this Chapter shall not be transferable and shall terminate on December 31st of the year in which said license is issued, unless it is renewed pursuant to the provisions of Paragraph 3 below.
3. On or about November 1st of each year, the Chief of Police shall make available a renewal application for each licensed Dealer under this Chapter. Upon submission of the renewal application and required \$300 annual fee, the license will be renewed unless the Dealer has violated provisions of Section 105-5. In such case the Chief of Police will notify the Dealer, who may request a hearing as described in Section 105-5.

105-5. Revocation of License.

1. Licenses issued under the provisions of this Chapter may be revoked by the Chief of Police after a hearing, upon notice to the applicant, for any of the following causes:
 - a. Fraud, misrepresentation, or false statement contained in the application for license;
 - b. Fraud, misrepresentation, or false statement made in the course of carrying on the business as a Dealer in property as described in Appendix I of this Chapter;
 - c. Any violation of this Chapter;
 - d. Conviction of any crime;
 - e. Conviction of any disorderly persons offense involving moral turpitude;
 - f. Conviction of an offense under the laws of the United States or any other state, which is substantially equivalent to the offenses named in paragraph d. or e. above; or;
 - g. Conducting the business of soliciting or canvassing in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
3. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least ten (10) business days prior to the date set for the hearing. The hearing shall be conducted by the Chief of Police.

105-6. Dealers' Responsibilities, Requirements and Recordkeeping.

Every Dealer within the Borough of Butler shall, upon the purchase, receiving for pawn, or receiving for consignment, of any property described in Appendix I of this Chapter from the public, as this term is defined in Section 105-2, be required to:

1. Record using a unique transaction number the name, address and telephone number of the seller or sellers; the time and date of the transaction; the net weight in terms of pounds Troy, pennyweight (Troy) or kilograms/grams of the precious metals; fineness in terms of karats for gold, and sterling or coin for silver, in accordance with N.J.S.A. 51:5-1 et seq. and N.J.S.A. 51:6-1 et seq. and any property containing a serial number.
2. Document, through use of an electronic database software system as designated by the Chief of Police, the information as required by this Section. These records shall be subject to the inspection of any sworn police officer acting in the performance of their duties.
3. Through the use of applicably required computer equipment, and using the electronic format approved by the Chief of Police, enter all transactions into the electronic database within forty-eight (48) hours from the date of purchase including the following information:
 - a. The name, address, date of birth, telephone number, and governmental identification number of the seller;
 - b. A full description of property sold or pawned by the seller, including but not limited to, marks, numbers, dates, sizes, shapes, initials, monograms and serial numbers, face value and identifying numbers of gift cards;
 - c. The price paid for the property;
 - d. The entry must include the name of the clerk or the Dealer who made the transaction so as to readily identify that individual.
 - e. A color photograph or color image of the seller's presented governmental photo identification scanned into the transaction record.
 - f. A color photograph or color image of all property sold scanned into the transaction record. When photographing or imaging, all property must be positioned in a manner that makes it readily and easily identifiable.
4. All of the above described property cannot be sold or disposed of and shall be made available for inspection by any sworn Police Officer in the performance of their duties for a period of fifteen (15) business days from the date the information required above is received by the Chief of Police in the prescribed electronic format. The property shall remain in the same condition as when purchased and shall not be changed, modified, melted or disposed of by the Dealer until the fifteen day period has expired. If the property is such that it would create a hardship on the Dealer by holding the property for such period, the Dealer may present the property to the Chief of Police in order that it may be photographed and, if deemed necessary by the Chief of Police, an investigation be implemented. The Chief of Police has the authority to grant the Dealer a waiver of the requirement under this section.

5. In the event of a database failure or Dealer's computer equipment malfunctions, all

transaction information is required to be submitted on paper forms approved by the Chief of Police. In the event that paper forms are used, the dealer is responsible to enter all required transaction information described in Section 101-13.3.a-f into the database as soon as possible upon the Dealer's equipment being repaired or replaced, or the database coming back into service. Failure by the Dealer to properly maintain computer equipment in a reasonable fashion, or failure by the Dealer to replace faulty computer equipment, may result in the Dealer being cited for a violation of this Chapter and may result in the revocation of the Dealer's license under Section 101-12 of this Chapter.

6. It shall be the requisite duty of every Dealer, and of every person in the Dealer's employ, to admit to the premises during business hours any member of the Butler Police Department or any other sworn Police Officer acting in the performance of their duties to examine any database, book, ledger, or any other record on the premises relating to the purchase of property from the public as defined in this Chapter. Butler Borough Police Officers are empowered to take possession of any property known by a police officer or official to be missing or to have been stolen, or where the officer or official has probable cause to believe the article is missing or stolen. A receipt will be provided to the Dealer for any property seized by the Butler Borough Police Department.

105-7. Non-Applicability.

This Chapter shall not apply to purchases made by Dealers from wholesalers or other legitimate suppliers, but shall only apply to those purchases made from the public which includes other retail sellers as defined in Section 105-2. The Dealer shall keep records of all wholesale purchases for a period of six months from the date of such purchase, which records shall be opened to investigation by the Butler Borough Police Department or any sworn Police Officer in the performance of their duties.

105-8. Purchases from Minors.

No Dealer within the Borough of Butler shall purchase any property as defined in Appendix I from any person under the age of 18 years.

105-9. Violations and Penalties.

Violation of any provision of this Chapter shall, upon conviction thereof, be punished by a minimum fine of \$100 or a maximum of \$2,000 and/or by imprisonment for a term not exceeding 90 days and/or by a period of community service not exceeding 90 days. Each and every violation shall be considered a separate violation. Each day that a violation continues shall be a separate violation. Each violation shall result in a ten (10) day suspension of the Dealer's license under this Chapter.

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§ 105-10

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§ 105-10

105-10. Appendix.

APPENDIX I PROPERTY AS FOLLOWS:

Scrap gold	Tools of all kinds
Old gold	Sports memorabilia
Silver	Typewriters
Jewelry	Paintings
Home electronics/audio and visual equipment	Televisions
Musical instruments	DVRs
Cellular telephones and accessories	MP3
Scales	IPods
Computers including:	GPS, DVD Players/Recorders
Desktop, laptop, tablets, computer hardware and software	
Blue Ray Players/Recorders,	
Gaming systems and software	Camcorders
Word processors	Cameras
Scanners	Car stereos
Sporting goods of all kinds	Gift cards
Antiques	Furniture
Platinum	Clothing
All other precious metals	
Any and all other articles of value.	
Antique weapons both bladed and firearms	

Chapter 108

DOGS

- § 108-1. Definitions.
- § 108-2. Licensing provisions.
- § 108-3. Disposition of fees.
- § 108-4. Rabies inoculation.
- § 108-5. Biennial canvass.
- § 108-6. Impounding.
- § 108-7. Prohibitions.
- § 108-8. Potentially dangerous od Vicious dogs.
- § 108-9. Number of dogs per residential structure.
- § 108-10. Enforcement.
- § 108-11. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Sections 5-1 through 5-10 of the Revised General Ordinances of 1976; amended in its entirety 11-17-1997 by Ord. No. 1997-24; Amended in its entirety 4-21-2020 by Ord. No. 2020-5. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

[Animals — See Ch. 72.](#)
[Cats — See Ch. 93.](#)
[Littering — See Ch. 153.](#)

[Noise — See Ch. 160.](#)
[Violations and penalties — See Ch. 230.](#)

§ 108-1. Definitions.

The words hereinafter defined shall have the meanings indicated:

DOG — Any dog, bitch or spayed bitch.

DOG OF LICENSING AGE — Any dog which has attained the age of seven months or which possesses a set of permanent teeth.

OWNER — When applied to the proprietorship of a dog, includes every person having a right of property in such dog in his keeping or under his dominion. A person shall be deemed to have a dog in his keeping and under his dominion whenever the ownership or custody of any dog is in an unemancipated infant or other member of his household.

§ 108-2. Licensing provisions.

A. License required. Any person who shall own, keep or harbor a dog of licensing age shall, in the month of January and annually thereafter, apply for and procure from the Licensing Clerk of the Borough a license and official metal registration tag for each such dog so owned, kept or harbored and shall place upon each such dog a collar or harness with the registration tag securely fastened thereto. Licenses shall be required of all dogs of licensing age, including:

- (1) Any dog acquired by any person during the course of any calendar year and kept within the Borough for more than 30 days after acquisition of a dog of licensing age.
 - (2) Any dog licensed by another state brought into the Borough by any person and kept within the Borough for more than 90 days.
 - (3) Any dog currently licensed within the State of New Jersey shall pay a \$2.00 transfer for a Borough of Butler dog license for the remainder of the calendar year.
- D. Application for license.
- E. Each application for a license under this section shall be signed by the owner or keeper of the dog and shall give the following information:
- (a) A general description of the dog sought to be licensed, including breed, sex, age, color and markings and whether such dog is of a long-haired or short-haired variety.
 - (b) Name, street and post office address of the owner and of the person who shall keep or harbor such dog.
- F. Evidence of rabies vaccination in accordance with § 108-5.
- G. Registration numbers shall be issued in the order in which applications are received.
- H. License record. The information on the application and the license number issued for the dog shall be preserved for a period as prescribed by the State of New Jersey. In addition, he/she shall forward similar information to the State Department of Health, each month, on forms furnished by the Department.
- I. The person applying for a license tag or for renewal of such license and tag shall pay to the Borough a fee of \$10 for a spayed or neutered dog and a fee of \$13 for a non spayed or non neutered dog (which amounts include fees required by the New Jersey Department of Health and Senior Services). Dog Licenses are due on or before January 31, of the licensing year. An additional late fee of \$5 shall be charged for the renewal of an existing dog license obtained on or after the first day of March. (Effective January 1, 2012). **[Amended 11-7-2011 by Ord. No. 2011-19]**
- J. Exception. Dogs used as guides for blind persons or hearing impaired person commonly known as “Seeing Eye” or “Hearing Ear” dogs shall be licensed and registered as other dogs hereinabove provided for, except that the owner or keeper of such dogs shall not be required to pay any fee therefor.

F. Prohibition. No person, except an officer in the performance of his duties, shall remove a registration tag from the collar of any dog without the consent of the owner, nor shall any person attach a registration tag to a dog for which it was not issued.

G. Penalty. Any person violating any provision of this section shall be subject to a fine not exceeding \$100 for each offense or imprisonment not exceeding 30 days, or both.

§ 108-3. Disposition of fees.

A. License fees and other moneys collected or received under the provisions of this chapter, except license tag fees, shall be forwarded to the Treasurer of the Borough within 30 days after collection or receipt and shall be placed in a special account separate from any of the other accounts of the Borough and which shall be used for the following purposes only: for collecting, keeping and disposing of dogs liable to seizure under this chapter; for local prevention and control of rabies; for providing antirabic treatment under the direction of the local Health Department for any person known or suspected to have been exposed to rabies; for all other purposes prescribed by the statutes of New Jersey governing the subject; and for administering the provisions of this chapter. Any unexpended balance remaining in such special account shall be retained therein until the end of the third fiscal year following and may be used for any of the purposes set forth in this section. At the end of the third fiscal year thereafter, there shall be transferred from such special account to the general funds of the Borough any amount then in such account which is in excess of the total amount paid into the special account during the last two fiscal years next preceding.

B. The registration tag fee of \$1 for each dog shall be forwarded within 30 days after collection by the Treasurer to the State Department of Health.

§ 108-4. Rabies inoculation.

A. Inoculation required. No person shall own, possess, harbor or keep any dog within the boundaries of the Borough over six months of age, unless the dog has been inoculated against rabies. However, any dog may be exempt from the inoculation requirement, for a specified period of time, by the Board of Health upon the presentation of a certificate from a duly licensed veterinarian stating that, because of infirmity or other physical condition, the inoculation of the dog for a specified period of time is contraindicated.

B. Certificate. Any person owning, keeping, harboring or having custody of a dog shall obtain from the veterinarian who vaccinates the dog against rabies a certificate, within 10 days of the vaccination, or within 10 days after bringing the dog into the Borough if the dog was vaccinated before being brought into the Borough, deliver the certificate to the office of the Secretary of the Licensing Department, who shall file it with the records of the Licensing Department.

A. Prerequisite to licensing. No license required for the owning and keeping of dogs, by virtue of any state law or Borough ordinance, shall be issued to any person, unless a certificate issued by a duly licensed veterinarian, as provided in Subsection B, is presented to and filed with the office of the Licensing Department showing that such dog has been vaccinated against rabies in the manner provided herein and that the vaccination is valid through October 31 of the licensing year.

A. Free vaccination. The Department of Health is hereby authorized and empowered to provide free vaccination of dogs at a suitable clinic and place designated by it, to be conducted by a licensed, veterinarian of the State of New Jersey. The Department of Health is hereby further authorized and empowered to make and adopt such rules and regulations consistent with the terms and provisions of this section, as it may deem proper and necessary for its enforcement.

A. Violation. Should any person owning a dog or dogs omit or refuse to have such dog or dogs inoculated under the provisions of Subsection A, then each day following the time when the inoculation should have been made as provided in this section shall constitute a separate offense.

§ 108-5. Biennial canvass. [Amended 12-21-1999 by Ord. No. 1999-27; 10-16-2001 by Ord. No. 2001-24]

The Borough of Butler may biennially cause a canvass to be made of all dogs owned, kept or harbored within the limits of the Borough. The Department of Health of the Borough shall report to the State Department of Health the results thereof, setting forth in separate columns the names and addresses of persons owning dogs, keeping or harboring dogs, the number of unlicensed dogs owned, kept or harbored by each person, together with a complete description of each unlicensed dog.

§ 108-6. Impounding.

A. Causes for impounding. The Certified Animal Control Officer of the Borough shall take into custody and impound or cause to be taken into custody and impounded and thereafter destroyed or disposed of as provided in this section:

- (1) Any dog off the premises of the owner or of the person keeping or harboring such dog which the official or his agent or agents have reason to believe is a stray dog.
- (2) Any dog off the premises of the owner or the person keeping or harboring such dog without a current registration tag on his collar.
- (3) Any female dog in season off the premises of the owner or of the person keeping or harboring the dog.

- B. Notice of seizure. If any dog so seized wears a collar or harness or microchip having inscribed thereon or attached thereto the name and address of any person or a registration tag, or the owner or the person keeping or harboring such dog is known, the Animal Control Officer shall forthwith serve on the person whose address is given on the collar or on the owner or the person keeping or harboring the dog, if known, a notice in writing that the dog has been seized and will be liable to be disposed of or destroyed if not claimed within seven days after the service of the notice. A notice under this section may be served either by delivering it to the person on whom it is to be served or by leaving it at the person's usual or last known place of abode or at the address given on the collar or by forwarding it by mail in a prepaid letter addressed to that person at his usual or last known place of abode or to the address given on the collar.
- C. Destruction of unclaimed dogs. When any dog so seized has been detained for seven days after notice, when notice can be given as above set forth, or has been detained seven days after seizure, when notice has not been and cannot be given as set forth in Subsection B, and if the owner or the person keeping or harboring the dog has not claimed the dog and paid all expenses incurred by reason of its detention.

§ 108-7. Prohibitions.

- D. Habitual barking prohibited. No person shall keep, harbor or maintain any dog which habitually barks, howls or cries. The habitual barking, howling or crying of a dog in the Borough is hereby declared to be a disturbing noise within the meaning of N.J.S.A. 40:48-1, Subsection 8, and Borough of Butler Municipal Code 160-8 Subsection G and is further declared to be a nuisance.
- E. Running at large prohibited. No person owning, keeping or harboring any dog shall allow it to run at large within the Borough; provided, however, that this subsection shall not apply to hunting dogs while they are in the woods and fields of the Borough and are under the dominion and control of their owners.
- F. Dogs prohibited in public places unless confined to physical leash or restraint.
- (1) No person owning, keeping or harboring any dog shall allow it to be upon the public streets or in any of the public places of the Borough unless such dog is securely confined and controlled by an adequate leash not more than six feet long.

- (2) No person owning, harboring, keeping, walking or in charge of any dog shall cause, permit or allow such dog to soil, defile, defecate on or commit any nuisance on any common thoroughfare, street, sidewalk, passageway, road, bypath, play area, park or any place where people congregate or walk, or upon any boardwalk, beaches or beachfront in the Borough, or upon any public property whatsoever, or upon any private property without the permission of the owner of the private property in the last instance. If any such person shall permit such dog to soil, defile, defecate on or commit any nuisance on the areas aforesaid, he shall immediately remove all feces and droppings deposited by such dog. Removal shall be in a sanitary manner by shovel, container, disposal bag or the like. The feces and droppings shall be removed by such person from the aforesaid designated areas and shall be disposed of by such person in a sanitary manner.

D. Injury to Person or Property. No person owning, keeping or harboring any dog shall permit or allow it to do any injury to any person or to do any damage to any lawn, shrubbery, flowers, grounds or property.

§ 108-8. Potential Dangerous or Vicious dogs.

Chapter 307 of the Laws of the State of New Jersey, 1989 (N.J.S.A. 4:19-17 through 4:19-35 et seq.) and the amendments and supplements therefor are hereby adopted, enacted and incorporated herein. Refer to State 4-19-19

§ 108-9. Number of dogs per residential structure.

No person, which shall be defined to include a family unit, shall keep, harbor, have possession or custody of more than five dogs on any one residential premises within the Borough. This restriction shall not research include the temporary (until weaned) keeping of puppies which have been born to a female dog kept on the same premises at the time of the birth of said puppies. Provided that said dogs shall not be replaced so long as more than five dogs shall be kept, harbored or possessed or be in such custody at said residential premises.

§ 108-10. Enforcement.

A. Appointment of Certified Animal Control Officer.

- (1) The Mayor and Council shall, by resolution, contract for Animal Control Services, whose duty it shall be to enforce the provisions of this chapter.
- (2) All Animal Control Officers and police officers of the Borough, are hereby given full power and authority and are charged with the duty to enforce this chapter.

B. Access to premises. Any officer or agent authorized or empowered to perform any duty under this chapter is hereby authorized to go upon any premises to seize for impounding any dog which he may lawfully seize and impound when such officer is in immediate pursuit of such dog, except upon the premises of the owner of the dog if the owner is present and forbids the same.

C. Interference with duties prohibited. No person shall hinder, molest or interfere with anyone authorized or empowered to perform any duty under this chapter.

§ 108-11. Violations and penalties. [Amended 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 110

DRUGS

ARTICLE I

Drug-Free School Zones

§ 110-1. Adoption of map.

§ 110-2. Map to be official record.

§ 110-3. Notification of changes.

§ 110-4. Map to be kept on file.

§ 110-5. Additional declarations.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Drug-Free School Zones

[Adopted 10-4-1988 by Ord. No. 26-88]

§ 110-1. Adoption of map.

In accordance with and pursuant to the authority of P.L. 1988, c. 44 (N.J.S.A. 2C:35-7), the Drug-Free School Zone Map produced on or about February, 1988, by Hirth Weidener Associates, is hereby approved and adopted as an official finding and record of the location and areas within the Borough of Butler of property which is used for school purposes and which is owned by or leased to any elementary or secondary school or school board and of the areas on or within 1,000 feet of such school property.

§ 110-2. Map to be official record.

The Drug-Free School Zone Map approved and adopted pursuant to § 110-1 of this Article shall continue to constitute an official finding and record as to the location and boundaries of areas on or within 1,000 feet of property owned by or leased to any elementary or secondary school or school board which is used for school purposes, until such time, if any, that this Article shall be amended to reflect any additions or deletions with respect to the location and boundaries of school property and Drug-Free School Zones.

§ 110-3. Notification of changes.

The school board or the chief administrative officer, in the case of any private or parochial school, is hereby directed and shall have the continuing obligation to promptly notify the Borough Tax Assessment Mapping Engineer and the Borough Attorney of any changes or contemplated changes in the location and boundaries of any property owned by or leased to any elementary school or school board and which is used for school purposes.

§ 110-4. Map to be kept on file.

The Borough Clerk is hereby directed to receive and to keep on file the original of the map approved and adopted pursuant to § 110-1 of this Article and to provide at a reasonable cost a true copy thereof to any person, agency or court which may, from time to time, request such a copy, along with a certification that such copy is a true copy of the map approved and adopted herein and kept on file. It is hereby further directed that a true copy of such map and of this chapter shall be provided without cost to the County Clerk and to the office of the Morris County Prosecutor.

§ 110-5. Additional declarations.

The following additional matters are hereby determined, declared, recited and stated:

- A. It is understood that the map approved and adopted pursuant to § 110-1 of this chapter was prepared and is intended to be used as evidence in prosecutions arising under the criminal laws of this state, and that pursuant to state law, such map shall constitute prima facie evidence of the following:
 - (1) The location of elementary and secondary schools within the Borough;
 - (2) The boundaries of the real property which is owned by or leased to such schools or a school board;
 - (3) That such school property is and continues to be used for school purposes; and
 - (4) The location and boundaries of areas which are on or within 1,000 feet of such school property.
- B. Except as is otherwise expressly noted on the face of the approved and adopted map, all of the property depicted on the map approved and adopted herein as school property was owned by or leased to a school or school board and was being used for school purposes as of July 9, 1987, that being the effective date of P.L. 1987, c. 101 (N.J.S.A. 2C:35-7).
- C. Pursuant to the provisions of P.L. 1988, c. 44, a prosecutor is not precluded from introducing or relying upon any other evidence or testimony to establish a violation of the offense defined in that statute, including use of a map or diagram other than the one approved and adopted pursuant to § 110-1 of this Article. The failure of the map approved herein to depict the location and boundaries of any property which is, in fact, used for school purposes and which is owned by or leased to any elementary or secondary school or school board, whether the absence of such depiction is the result of inadvertent omission or the result of any changes in the location and boundaries of such property which have not yet been incorporated into a revised approved map, shall not be deemed to be an official finding and record that such property is not owned by or leased to a school or school board or that such property is not used for school purposes.
- D. All of the requirements set forth in P.L. 1988, c. 44 concerning the preparation, approval and adoption of a Drug-Free School Zone Map have been complied with.

Chapter 112

ELECTRIC SERVICE

§ 112-1. Establishment of rates.

§ 112-2. Effective date.

§ 112-3. Service charge for at-door payment of fee arrearage.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 9-17-1985 by Ord. No. 85-14, Amended 11-6-2017. Amendments noted where applicable.]

§ 112-1. Establishment of rates.

Electric rates for customers of the Borough electric utility located within the Borough of Butler shall be the same as those established by the order of the Board of Public Utilities adopted August 16, 1985, effective August 1, 1985, and as more specifically set forth in the attached schedule of rates.¹

§ 112-2. Effective date.

This chapter shall be effective in accordance with law, but the rates shall be effective with the Board of Public Utilities order on August 1, 1985.

§ 112-3. Service charge for at-door payment of fee arrearage. [Added 2-15-2000 by Ord. No. 2000-1, Amended 11-6-2017 by Ord. No. 2017-13]

There shall be a service charge of \$25 added to the electric service fee when the fee is paid for at the premises to Borough Electric Department personnel to avoid disconnection of service.

1. Editor's Note: The schedule of rates is on file in the office of the Borough Clerk and may be inspected there during regular business hours.

Chapter 114

EMERGENCY FUEL OIL DELIVERY

§ 114-1. Borough Administrator to act as agent of landlord; conditions.

§ 114-2. Billing.

§ 114-3. Violations and penalties.

§ 114-4. Enforcement proceeding; reimbursements.

§ 114-5. Liability of Borough.

§ 114-6. Applicability.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 1-17-1995 by Ord. No. 1994-24. Amendments noted where applicable.]

§ 114-1. Borough Administrator to act as agent of landlord; conditions.

The Administrator of the Borough of Butler or another officer designated by the Administrator shall, whenever necessary to protect the health and safety of residential tenants, act as an agent for a landlord in engaging a fuel oil dealer to deliver fuel oil at a reasonable price per gallon and to refire the burner to restore the proper heating of any residential property rented by said landlord; provided, however, that at least 12 hours have elapsed if the outside air temperature is between 33° F. and 55° F., inclusive, or at least four hours have elapsed if the outside air temperature is 32° F. or less since the tenant has lodged a complaint with the municipality, prior to which complaint a bona fide attempt has been made by the tenant or his representative to notify the landlord of the lack of heat and the landlord has failed to take appropriate action. Lack of heat means maintaining less heat than required by N.J.S.A. 26:3-31.

§ 114-2. Billing.

Any fuel oil dealer who delivers fuel oil or refires the burner in accordance with § 114-1 may bill the landlord directly, or the Borough may issue a voucher to the fuel oil dealer who delivered the fuel oil for the money amount due on the fuel oil delivered and the service charge for refiring the burner, if any.

§ 114-3. Violations and penalties.

Any landlord or his agent whose negligence or failure to act results in Borough action pursuant to § 114-1 shall be liable of a civil penalty of not more than \$300 for each affected dwelling unit in the residential property. Such penalty shall be recovered by the Borough in a civil action by summary proceedings under the Penalty Enforcement Law (N.J.S.A. 2A:58-1 et seq.). Any action to collect or enforce such penalty may be brought in the Superior Court or Municipal Court. The amount of such penalty shall be paid to the municipality and be used for general municipal purposes.

§ 114-4. Enforcement proceeding; reimbursements.

In any penalty enforcement proceeding brought pursuant to this chapter, the Court shall also order the landlord or his agent to reimburse the municipality for actual costs for any fuel oil delivered and the service charge for refiring the burner, if any, and for reasonable attorney's fees and costs. The Court shall further be empowered to issue any appropriate injunctive orders and to authorize immediate collection of reimbursable costs due the municipality out of the goods and chattels of the landlord, including all sums due, or which may come due, as present or future rents. Any landlord who prevails in such an action shall be entitled to reimbursement by the municipality for all reasonable costs and expenses. Such landlord, however, shall still remain responsible for the cost of any fuel oil delivered and any charge for refiring the burner incurred by the Borough.

§ 114-5. Liability of Borough.

The Borough of Butler and its employees shall not be liable to any person or property in enforcing this chapter except for gross negligence or malfeasance of any Borough official, officer or employee, and under no circumstances shall the Borough be held liable for damages from lack of heat in a residential unit.

§ 114-6. Applicability.

The provisions of this chapter shall not apply to owner-occupied residential rental properties containing five units or less.

Chapter 117

EXPLOSIVES

§ 117-1. Storage permit; application.

§ 117-2. Storage prohibitions.

§ 117-3. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 3-5 of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Fire Department — See Ch. 21.](#)

[Fire prevention — See Ch. 122.](#)

§ 117-1. Storage permit; application.

No person shall store or keep any powder, dynamite or other explosives for sale within the limits of the Borough without having a permit from the Clerk of the Borough. Application for such permit shall be made to the Borough Clerk and shall not be issued until authorized by the Borough Council and upon such terms, conditions and regulations as the Borough Council may by resolution determine proper for the protection of persons and property of the Borough. Such application shall be accompanied by a fee of \$2, and this permit shall be granted for not more than one year.

§ 117-2. Storage prohibitions.

- A. No person shall have or keep any railroad car containing powder, dynamite or other explosives on any railroad tracks or sidings within the limits of the Borough for more than one hour on any day.
- B. No person shall park any auto or other vehicle containing powder, dynamite or other explosives on any highway or in any public place within the limits of the Borough for more than one hour on any day.

§ 117-3. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 119

FEES

ARTICLE I

Copies of Public Records

§ 119-1. Fees for various municipal publications and services.

§ 119-2. Photocopies of public records.

§ 119-3. Municipal Court discovery.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Copies of Public Records

[Adopted 11-15-1999 by Ord No. 1999-23]

§ 119-1. Fees for various municipal publications and services.

The following fees shall apply for delineated municipal services and publications:

Item	Fee
Tax printouts (includes lien and special assessment)	\$2.00 per line item per year, plus an additional \$2.00 per line item for lien information and \$2.00 per line item for assessment information
Tax Map copies	\$0.50 per page
Utility searches (electric/water/sewer)	\$2.00 per account per year
Duplicate tax bills	\$5.00
Duplicate tax sale certificates	\$100.00
Municipal tax search	\$10.00
Municipal assessment search	\$10.00
200 feet certified list from Tax Assessor	\$10.00
List of properties on well and septic	\$10.00
Meter information	\$2.00 per meter per year
Prior year tax assessment and billing information	\$2.00 per line item per year
Lien redemption statement	\$2.00 per line item per year
Police record check	\$35.00
Zoning Ordinance book (with Map)	\$35.00
Zoning Map only	\$3.00

Item	Fee
Certified copies of birth, death, marriage, or domestic partnership certificates [Amended 4-20-2004 by Ord. No. 2004-3; 7-20-2004 by Ord. No. 2004-9; 11-7-2011 by Ord. No. 2011-19]	\$10.00 each
Duplicate certificate of redemption [Added 5-16-2000 by Ord. No. 2000-4; amended 12-19-2000 by Ord. No. 2000-30]	\$50.00
Smoke detector certification, resale [Added 10-17-2000 by Ord. No. 2000-26]	\$50.00
Smoke detector certification, tenant change [Added 10-17-2000 by Ord. No. 2000-26]	\$25.00
Tax delinquency publication [Added 10-17-2000 by Ord. No. 2000-26]	\$25.00 per publication
Motor vehicle accident report obtained other than in person (by mail or facsimile) [Added 3-20-2007 by Ord. No. 2007-6]	\$5.00 for the first three pages and \$1.00 per page thereafter
Annual permit for fishing on municipal property [Added 9-18-2007 by Ord. No. 2007-27]	\$10.00

§ 119-2. Photocopies of public records. [Amended 7-19-2011 by Ord. No. 2011-15; 11-7-2011 by Ord. No. 2011-19]

Standard-sized paper documents up to 8 1/2 inches by 14 inches in size shall be made available for purchase by any citizen during regular business hours according to the following schedule of fees which shall be based on the total number of pages or parts thereof to be purchased without regard to the number of separate records being copied:

- (a) Less than five pages: no charge.
- (b) Five or more pages: \$0.05 per page, starting with the first page.
- (c) Copies of public meetings on CD - \$0.50 per CD
- (d) Copies of Cassette Tapes – Cost of duplication or transcription whichever is available.

§ 119-3. Municipal Court discovery. [Added 10-19-2004 by Ord. No. 2004-16]

- A. All requests for discovery in matters pending in the Borough of Butler Municipal Court shall be submitted through the Municipal Prosecutor.
- B. The following fees shall be payable by the requestor to the Borough of Butler for the discovery provided:
 - (1) Seventy-five cents per page for each of the first 10 pages photocopied.
 - (2) Fifty cents per page for each of the next 10 pages photocopied.
 - (3) Twenty-five cents per page for each of the pages photocopied thereafter.
 - (4) Actual postage for any discovery sent by mail.
 - (5) Twenty-five cents for the envelope for any discovery sent by mail.

- (6) Photographs will not be photocopied at the rates established herein. If requests are made for duplicate photographs, the actual cost of making the photographs shall be charged.
 - (7) Duplication of videotapes constitute an extraordinary duplication process and will be charged at the rate of \$5 per videotape.
 - (8) On any item that cannot be photocopied on the Borough's copy machine or not otherwise provided for in this schedule, the actual cost incurred in making the copy shall be charged.
- C. Where the discovery must be obtained from an entity other than the Borough of Butler, e.g., another police department, the actual costs paid to the other entity shall be paid by the requestor.

Chapter 120

FIREARMS

§ 120-1. Intent.

§ 120-1. Intent.

§ 120-2. Definitions.

§ 120-3. Firing or discharge restricted.

§ 120-4. Exceptions.

§ 120-5. Improper use prohibited.

§ 120-6. Violations and penalties.

§ 120-7. Posting of signs.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 7-19-1994 by Ord. No. 1994-8. Amendments noted where applicable.]

§ 120-1. Intent.

Due to the density of the population in the Borough of Butler, it is necessary that the use of firearms be regulated for the protection of the public health and safety and that the unauthorized discharge of firearms be prohibited.

§ 120-2. Definitions.

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

FIREARMS — Includes air guns, air pistols, spring guns or pistols, shotguns, rifles, pistols, revolvers, automatic pistols and/or any handgun of any caliber.

§ 120-3. Firing or discharge restricted.

Except as herein provided, it shall be unlawful to fire or discharge any firearm within the Borough of Butler.

§ 120-4. Exceptions.

Exceptions to § 120-3 are as follows:

- A. The use of firearms is permitted when employed by any duly appointed law officer in the course of his/her official duty.
- B. The use of firearms is permitted when necessary for the preservation of human life, as authorized in the New Jersey Criminal Codes.
- C. The use of firearms is permitted when hunting in conformity with the game laws and other applicable laws, regulations and ordinances of the State of New Jersey and this Borough, provided that any person hunting upon the land of another shall have the written permission of the landowner or lessee of the property and shall have the written permission upon his or her person. The written permission shall be assigned by the owner or lessee, shall clearly and legibly state the name and address of the person to

whom the permission has been granted and shall be dated and shall be valid only for that period as appears on the face of the permittee's then-current state hunting license.

- D. The use of firearms shall be allowed on target ranges, indoor or outdoor, under the supervision of the owner or occupant of that land or his or her duly appointed representative, provided that:
- (1) All target ranges shall be constructed and operated in a safe and prudent manner. If standards, regulations or recommended procedures for operation are established or promulgated by any recognized body, such as the National Rifle Association or the American Trap Shooting Association, then such standards, regulations or procedures shall be adhered to.
 - (2) Such range is registered as such with the Borough by the owner or occupant of the land on which the range is located, which registration shall specify the area or areas designated for target range purposes.

§ 120-5. Improper use prohibited.

The careless, reckless or improper use of any firearm tending to imperil or cause danger or harm to personal security or endanger the property of any person within the Borough of Butler is prohibited.

§ 120-6. Violations and penalties. [Amended 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

§ 120-7. Posting of signs.

Legible signs giving public notice of this chapter shall be posted at or near the public highways at the boundaries of the Borough of Butler.

Chapter 122

FIRE PREVENTION

ARTICLE I

General Standards

- § 122-1. Adoption of standards.
- § 122-2. Definitions.
- § 122-3. Bureau of Fire Prevention.
- § 122-4. Permit fee; expiration date.
- § 122-5. Certificate of occupancy.
- § 122-6. Modifications and amendments to code.
- § 122-7. Violations and penalties.

ARTICLE II

Enforcement of Uniform Fire Safety Code

- § 122-8. Local enforcement.
- § 122-9. Designation of enforcing agency.
- § 122-10. Duties of enforcing agency.
- § 122-10.1. Parking violation enforcement.
- § 122-11. Inspection of life hazard uses.
- § 122-12. Supervision and control of enforcing agency.
- § 122-13. Fire Official.
- § 122-14. Inspectors and other employees.
- § 122-15. Appeals.
- § 122-16. Additional inspections and fees.

ARTICLE III [Added 03-20-2012 by Ord. No. 2012-1]

Rapid Entry Key Lock Boxes

- § 122-17. Rapid Entry Lock Boxes Required.
- § 122-18. Time for Compliance.
- § 122-19. Violations and Penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as indicated in article histories as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

[Fire Department — See Ch. 21.](#)

[Uniform construction codes — See Ch. 101.](#)

[Explosives — See Ch. 117.](#)

[Housing standards — See Ch. 136.](#)

[Fire insurance claims — See Ch. 139, Art. I.](#)

ARTICLE I
General Standards
[Adopted 11-11-1980 by Ord. No. 80-20]

§ 122-1. Adoption of standards.

There is hereby adopted by the Mayor and Borough Council of the Borough of Butler, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the "BOCA Basic Fire Prevention Code/1978 (Fourth Edition)," and the whole thereof save and except such portions as are hereinafter deleted, modified or amended by this Article, of which code not less than three copies have been and are now filed in the office of the Borough Clerk, and the same are hereby adopted and incorporated as fully as if set forth at length herein, and from December 1, 1980, the provisions thereof shall be controlling within the limits of the Borough of Butler.

§ 122-2. Definitions.

Whenever the word "municipality" is used in the Fire Prevention Code, it shall be held to mean the Borough of Butler.

§ 122-3. Bureau of Fire Prevention.

- A. Establishment of enforcing agency. The Fire Prevention Code shall be enforced by the Bureau of Fire Prevention in the Fire Department of the Borough, which is hereby established and which shall be operated under the supervision of the Chief of the Fire Department.
- B. Membership; term.
- (1) The Bureau of Fire Prevention shall consist of the Chief of the Fire Department, all Assistant Chiefs and one member from each of the four fire companies. The Chief of the Fire Department shall appoint a member of the Bureau of Fire Prevention to be Chief of the Bureau of Fire Prevention for a two-year term, whose term shall continue during good behavior and satisfactory service, and he shall not be removed from office, except for cause after public trial.
 - (2) The Chief of the Fire Prevention Bureau may detail such members of the Fire Department as inspectors as shall from time to time be necessary.
- C. Powers; modification of provisions. The Chief of the Bureau of Fire Prevention shall have power to modify any of the provisions of the Fire Prevention Code, upon application in writing by the owner or lessee or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Chief of the Bureau of Fire Prevention thereon shall be entered upon the records of the Department and a signed copy shall be furnished the applicant.

D. Appeals. Whenever the Chief of the Bureau of Fire Prevention shall disapprove an application or refuse to grant a license or permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent or meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Chief of the Bureau of Fire Prevention to the Board of Appeals, which Board shall be composed of five members, which members shall be either former Chiefs or former Assistant Chiefs of the Butler Fire Department appointed by the Mayor and Borough Council of the Borough of Butler for a term of three years. The terms of the members first appointed, however, under this Act, shall be staggered so that two members of the Board of Appeals shall be appointed for one year, two members of the Board of Appeals for two years and one member of the Board of Appeals for three years.

§ 122-4. Permit fee; expiration date. [Amended 6-19-2012 by Ord. No. 2012-12; 5/17/2023 by Ord. No. 2023-4]

All permits required by the Fire Prevention Code shall be valid for a one year period and shall be renewable on or before July 1 of each year in the following amounts:

(a)	Type 1	\$54.00
(b)	Type 2	\$214.00
(c)	Type 3	\$427.00
(d)	Type 4	\$641.00
(e)	Type 5	Reserved Amount

§ 122-5. Certificate of occupancy.

Before a certificate of occupancy may be issued by the proper governmental agency, the Fire Department shall be notified by application for approval for any change in use or occupancy of existing business, mercantile or industrial establishment for the purpose of ascertaining and causing to be corrected any condition liable to cause fire, endanger life from fire, or any violations of the provisions or intent of this code and of any other ordinance affecting the fire hazard.

§ 122-6. Modifications and amendments to code.

A. Appendix B of the BOCA Basic Fire Prevention Code/1978 is hereby amended to provide for the utilization under the category entitled, "Accepted Engineering Practice Standards, General" the National Fire Codes NFIPA 80 rather than NFIPA 77.

B. The following additions and supplements are hereby made to the BOCA Basic Fire Prevention Code/1978 as adopted by the Borough of Butler by way of Ordinance No. 80-20: **[Added 4-21-1981 by Ord. No. 81-7]**

(1) Section F-105.1, General, is amended to add the following:

Any building or other structure which, for want of repairs, lack of adequate exit facilities, automatic or other fire alarm apparatus or fire extinguishing equipment, or by reason of age or dilapidated condition, or from any other cause, creates a hazardous condition.

(3) Section F-104.3, Fee, is added as follows:

F-104.3 Fee: The fee for an application for an appeal shall be \$25.

§ 122-7. Violations and penalties. **[Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]**

Any person, firm, or corporation violating any of the provisions of this article shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

ARTICLE II
Enforcement of Uniform Fire Safety Code
[Adopted 8-20-1985 by Ord. No. 85-11]

§ 122-8. Local enforcement. [Amended 8-16-1988 by Ord. No. 23-88]

Pursuant to Section 11 of Uniform Fire Safety Act (P.L. 1983, c. 383),¹ the New Jersey Uniform Fire Code shall be locally enforced in the municipality of the Borough of Butler.

§ 122-9. Designation of enforcing agency.

The local enforcing agency shall be the Bureau of Fire Prevention within the Fire Department of the Borough of Butler.

§ 122-10. Duties of enforcing agency.

The local enforcing agency shall enforce the Uniform Fire Safety Act and the codes and regulations adopted under it in all buildings, structures and premises within the established boundaries of the Borough of Butler, other than owner-occupied one- and two-family dwellings, and shall faithfully comply with the requirements of the Uniform Fire Safety Act and the Uniform Fire Code.

§ 122-10.1. Parking violation enforcement. [Added 1-4-1989 by Ord. No. 1-89]

A. The local enforcing agency and its members are hereby authorized and empowered with the ability to issue summonses and penalties to any individual who violates any laws, ordinances, rules or regulations promulgated pursuant to the New Jersey Uniform Fire Code regarding fire zones and the illegal parking of automobiles or other obstacles or obstructions therein.

B. Said agency shall also be empowered with the ability to issue citations for the violation of any municipal ordinance pertaining to fire prevention.

C. The issuance of any summons or citation by said agency shall be treated in the same manner as if issued by the Police Department.

§ 122-11. Inspection of life hazard uses.

The local enforcing agency established by § 122-9 of this Article shall carry out periodic inspections of life hazard uses required by the Uniform Code on behalf of the Commissioner of Community Affairs.

1. Editor's Note: See N.J.S.A. 52:27D-202.

§ 122-12. Supervision and control of enforcing agency.

The local enforcing agency established by § 122-9 of this Article shall be a part of the Fire Department of the Borough of Butler and shall be under the direct supervision and control of the Fire Official, who will supervise the activities of the agency.

§ 122-13. Fire Official. [Amended 6-3-1986 by Ord. No. 11-86]

The Fire Chief shall recommend to the Borough Council an appointment for the position of Fire Official. The Fire Official shall be selected by the Borough Council and shall serve at the pleasure of the Borough Council. The Fire Official must be certified to perform the functions of a Fire Official pursuant to Subchapter 4 of Chapter 18A of Title 5 of the New Jersey Administrative Code.

§ 122-14. Inspectors and other employees.

- A. Appointment. Such inspectors and other employees as may be necessary in the local enforcing agency shall be appointed by the Borough Council of the Borough of Butler upon the recommendation of the Fire Official. Said inspectors shall be members of the Borough of Butler Volunteer Fire Department. They shall be entitled to only such benefits as approved by the Borough Council. They shall be under the direction of the Fire Official.
- B. Removal from office. Inspectors and other employees of the enforcing agency shall be subject to removal by the Borough of Butler for inefficiency or misconduct. Each inspector or employee to be so removed shall be afforded an opportunity to be heard by the appointing authority or a designated hearing officer.

§ 122-15. Appeals.

Pursuant to Sections 15 and 17 of the Uniform Fire Safety Act,² any person aggrieved by an order of the local enforcement agency shall have the right to appeal to the Construction Board of Appeals of the Borough of Butler.

§ 122-16. Additional inspections and fees. [Amended 6-3-1986 by Ord. No. 11-86; 6-19-2012 by Ord. No. 2012-12]

The following yearly Registration/Inspection fees shall be required for all non-life-hazard uses: \$50.00 which shall be paid to the Borough of Butler on or before January 31 of each calendar year.

2. Editor's Note: See N.J.S.A. 52:27D-206 and 52:27D-208.

ARTICLE III
Rapid Entry Key Lock Boxes
[Adopted 3-20-2012 by Ord. No. 2012-1]

§ 122-17 Rapid Entry Key Lock Boxes Required.

- A. Rapid entry key lock boxes shall be required on the following buildings or structures. The owner and occupant shall purchase and install a lock box in an accessible location to be approved by the Fire Official:
- (1) Buildings where there is a need for forcible entry during hours in which the structure is unoccupied;
 - (2) Buildings equipped with a sprinkler system or other suppression system and/or an automatic alarm system;
 - (3) Buildings where there are exit areas that may not be visible from the exterior of the structure;
 - (4) All multiple dwelling buildings, which contain more than two (2) units, and which include any common area between the individual units, and which common area is locked from the outside of the building.
 - (5) All day care/nurseries and public and private schools.
 - (6) All municipal buildings
 - (7) All community clubhouses and recreation centers.
 - (8) All places of worship.
 - (9) When, in the opinion of the Fire Official, access to or within a building or structure subject to the Uniform Fire Code is unduly difficult because of secured openings or where immediate access is necessary for lifesaving or firefighting purposes.
- B. A building with twenty-four-hour security is exempt from the lock box requirement.
- C. The lock box shall be an approved type and shall be uniform within the Borough of Butler. Access to lock boxes shall be available only to authorized Fire Department personnel and only by the master key. For security of the lock box, a tamper alarm may be connected to the building's burglar alarm system.

D. The lock box shall contain the following items:

- (1) Updated keys necessary for access to all portions of the premises.
- (2) Keys to fire alarm control panels; keys necessary to service fire alarm control panels, and keys necessary to operate or service fire protection systems.
- (3) Electronic entry cards if used in the building.
- (4) Elevator control keys.
- (5) Emergency Contact Information to include:
 - a. Off hours Contacts
 - b. Alarm Company Contacts

E. A current emergency and hazardous chemical inventory list and a binder containing the Material Safety Data Sheets (MSDS) shall be available to first responders. The location of these items shall be identified in the lock box.

F. Any lock box required to be installed under this section or any preexisting lock box shall be maintained by the owner or occupant of the premises.

G. The Borough of Butler and the Bureau of Fire Prevention, their agents and employees shall not be liable for damages resulting from any break, failure or defect of any key box installed in accordance with this article, or any accident or injury resulting therefrom.

§ 122-18 Time for Compliance.

All existing buildings shall comply with the requirements of this section within one (1) year from the effective date of this ordinance. All newly constructed buildings, not yet occupied, or buildings currently under construction and all buildings or businesses applying for a certificate of occupancy or continued certificate of occupancy shall comply with the requirements of this section immediately.

§ 122-19 Violations and Penalties.

Any responsible party in violation of any provision hereof shall receive written notice of violation(s) and shall be provided thirty (30) days to correct any violation(s) and come into compliance. Any responsible party, after receiving written notice by the Fire Official and failing to correct the violation within the thirty (30) day period, shall be subject to a fine of up to five hundred (\$500) dollars for each day of continued noncompliance following the end of the designated thirty (30) day period to correct any violation(s).

Chapter 124

FLOOD DAMAGE PREVENTION

- § 124-1. Statutory authorization.
- § 124-2. Findings of fact.
- § 124-3. Statement of purpose.
- § 124-4. Methods of reducing flood losses.
- § 124-5. Definitions.
- § 124-6. Applicability.
- § 124-7. Basis for establishing areas of special flood hazard.
- § 124-8. Violations and penalties.
- § 124-9. Effect on other legislation.
- § 124-10. Interpretation.
- § 124-11. Warning and disclaimer of liability.
- § 124-12. Development permit required; application.
- § 124-13. Appointment of enforcing official.
- § 124-14. Duties and responsibilities of enforcing official.
- § 124-15. Variance procedure.
- § 124-16. Provisions for flood hazard reductions.
- § 124-17. Specific standards for flood hazard reduction.
- § 124-18. Floodways.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 5-17-1988 by Ord. No. 11-88.¹ Amendments noted where applicable.]

GENERAL REFERENCES

[Uniform construction codes — See Ch. 101.](#)
[Housing standards — See Ch. 136.](#)

[Land use — See Ch. 143.](#)

§ 124-1. Statutory authorization.

The Legislature of the State of New Jersey has, in N.J.S.A. 40:48-1 et seq., delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the Mayor and Council of the Borough of Butler, County of Morris, State of New Jersey do ordain as follows.

§ 124-2. Findings of fact.

- A. The flood hazard areas of the Borough of Butler are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief and the impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

1. Editor's Note: This ordinance also repealed former Ch. 124, Flood Damage Prevention, adopted 10-15-1985 as Ord. No. 85-19.

- B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities and, when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

§ 124-3. Statement of purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health.
- B. To minimize expenditure of public money for costly flood control projects.
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- D. To minimize prolonged business interruptions.
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines and streets and bridges located in areas of special flood hazard.
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
- G. To ensure that potential buyers are notified that property is in an area of special flood hazard.
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

§ 124-4. Methods of reducing flood losses.

- A. Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.
- B. Requiring that uses which are vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Controlling the alteration of natural floodplains, stream channels and natural protective barriers which help accommodate or channel floodwaters.
- D. Controlling filling, grading, dredging and other development which may increase flood damage.
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

§ 124-5. Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application. As used in this chapter, the following words shall have the meanings indicated:

APPEAL — A request for a review of the construction official's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO or VO Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity of flow may be evident.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year.

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

BASEMENT — Any area of the building having its floor subgrade (below ground level) on all sides.

BREAKAWAY WALL — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or supporting foundation system.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the areas of special flood hazard.

ELEVATED BUILDING — A nonbasement built, in the case of a building in an area of special flood hazard, to have the top of the elevated floor or, in the case of a building in a coastal high hazard area, to have the bottom of the lowest horizontal structural member of the elevated floor elevated above the ground level by means of piling, columns (posts and piers) or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In an area of special flood hazard, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

FLOOD or FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters; and/or
- B. The unusual and rapid accumulation of runoff of surface waters from any source.

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

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

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

LOWEST FLOOR — The lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for the parking of vehicles, building access or storage in an area other than a basement is not considered a building's "lowest floor," provided that such enclosure is not built so to render the structure in violation of other applicable nonelevation design requirements.

MANUFACTURED HOME — A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles parked on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION — A parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of this chapter.

START OF CONSTRUCTION — For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided that the actual start of construction, repair, construction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site such as the pouring of a slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

STRUCTURE — A walled and roofed building, a manufactured home or a gas or liquid storage tank that is principally above ground.

SUBSTANTIAL IMPROVEMENT — Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- A. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or
- B. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE — A grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

§ 124-6. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Borough of Butler.

§ 124-7. Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled the "Flood Insurance Study for the Borough of Butler," dated July 6, 1985, with accompanying Flood Insurance Rate Maps and Flood Boundary and Floodway Maps is hereby adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at the Borough of Butler Municipal Building, One Ace Road, Butler, New Jersey.

§ 124-8. Violations and penalties. [Amended 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

§ 124-9. Effect on other legislation.

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this chapter and other ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restriction shall prevail.

§ 124-10. Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements.
- B. Liberally construed in favor of the governing body.
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

§ 124-11. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Borough of Butler, any officer or employee thereof or the Federal Insurance Administration for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

§ 124-12. Development permit required; application.

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in § 124-7. Application for a development permit shall be made on forms furnished by the construction official and may include but not be limited to plans, in duplicate, drawn to scale, showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- A. Elevation in relation to mean sea level, of the lowest floor, including basement, of all structures.
- B. Elevation in relation to mean sea level to which any structure has been floodproofed.
- C. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in § 124-17B.
- D. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

§ 124-13. Appointment of enforcing official.

The Construction Official is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

§ 124-14. Duties and responsibilities of enforcing official.

Duties of the Construction Official shall include but not be limited to:

- A. Permit review.
 - 1) Review all development permits to determine that the permit requirements of this chapter have been satisfied.
 - 2) Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - 3) Review all development permits to determine if the proposed development is located in the floodway and assure that the encroachment provisions of § 124-18A are met.
- B. Use of other base flood and floodway data. When base flood elevation and floodway data has not been provided in accordance with § 124-7, Basis for establishing areas of special flood hazard, the construction official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source in order to administer § 124-17A, Residential construction, and B, Nonresidential construction.
- C. Information to be obtained and maintained.
 - (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement, of all new or substantially improved structures and whether or not the structure contains a basement.
 - (2) For all new or substantially improved floodproofed structures:
 - (a) Verify and record the actual elevation in relation to mean sea level.
 - (b) Maintain the floodproofing certifications required in § 124-12C.
 - (3) Maintain for public inspection all records pertaining to the provisions of this chapter.
- (1) Alteration of watercourses.
 - 1) Notify adjacent communities and the State of New Jersey Department of Environmental Protection prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
 - 2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- E. Interpretation of FIRM boundaries. Make interpretation, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in § 124-15.

§ 124-15. Variance procedure.

A. Appeal board.

- (1) The Planning Board or Zoning Board of Adjustment, as established by the Borough of Butler, shall hear and decide appeals and requests for variances from the requirements of this chapter.
- (2) The Planning Board or Zoning Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the construction official in the enforcement or administration of this chapter.
- (3) Those aggrieved by the decision of the Planning Board or Zoning Board of Adjustment or any taxpayer may appeal such decision to the Superior Court of the State of New Jersey, as provided by law.
- (4) In passing upon such applications, the Planning Board or Zoning Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
 - (a) The danger that materials may be swept onto other lands to the injury of others.
 - (b) The danger to life and property due to flooding or erosion damage.
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (d) The importance of the services provided by the proposed facility to the community.
 - (e) The necessity to the facility of a waterfront location, where applicable.
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (g) The compatibility of the proposed use with existing and anticipated development.
 - (h) The relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program of that area.
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (j) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters, if applicable, expected at the site.
 - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

- (5) Upon consideration of the factors of § 124-15A(4) and the purposes of this chapter, the Planning Board or Zoning Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- (6) The Construction Official shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

B. Conditions for variances.

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in § 124-15A(4)(a) through (k) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in § 124-15A(4) or conflict with existing local laws or ordinances.
- (6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest flood elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

§ 124-16. Provisions for flood hazard reductions.

In all areas of special flood hazard, the following standards are required:

A. Anchoring.

D. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

E. All manufactured homes shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include but are not to be limited to use of over the top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

(1) Construction materials and methods.

(1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(2) Utilities.

(1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.

(3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(3) Subdivision proposals.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage.

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments which contain at least 50 lots or five acres, whichever is less.

E. Enclosure openings. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry

and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

§ 124-17. Specific standards for flood hazard reduction.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 124-7, Basis for establishing areas of special flood hazard, or in § 124-14B, Use of other base flood data, the following standards are required:

- A. Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
- B. Nonresidential construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or
 - (1) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water.
 - (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the applicable provisions of this subsection. Such certification shall be provided to the official as set forth in § 124-14C(2).
- C. Manufactured homes.
 - (1) Manufactured homes shall be anchored in accordance with § 124-16A(2).
 - (2) All manufactured homes to be placed or substantially improved within an area of special flood hazard shall be elevated on a permanent foundation such that the top of the lowest floor is at or above the base flood elevation.

§ 124-18. Floodways.

Located within areas of special flood hazard established in § 124-7 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- A. Prohibit encroachments, including fill, new construction, substantial improvements and other development unless a technical evaluation demonstrates that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If Subsection A is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of § 124-16, Provisions for flood hazard reduction.
- C. In all areas of special flood hazard in which base flood elevation data has been provided and no floodway has been designated, the cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than 0.2 of a foot at any point.

Chapter 129

GARBAGE, REFUSE AND RECYCLABLES

ARTICLE I

Limits on Collection

§ 129-1. Maximum amounts; exceptions; special arrangements; time of placement.

§ 129-2. Violations and penalties.

ARTICLE II

Separation of Certain Designated Materials and Recyclables

§ 129-3. Definitions.

§ 129-4. Source separation; exemption from source separation requirements.

§ 129-5. Acceptance of the municipal solid waste recycling goal.

§ 129-6. Collection of recyclable materials.

§ 129-7. Residential dwelling compliance requirements.

§ 129-8. Nonresidential establishment compliance requirements.

§ 129-9. New developments of multifamily residential units or commercial, institutional or to
N.J.S.A. 13:1E-99.14a and 13:1E-99.16c).

§ 129-10. Prohibition of the collection solid waste mixed with recyclable materials.

§ 129-11. Enforcement.

§ 129-12. Violations and penalties.

ARTICLE III

Construction, Renovation and Demolition Debris Recovery Plan

§ 129-13. Definitions.

§ 129-14. Construction, renovation and demolition debris recovery plan.

§ 129-15. Review of debris recovery plan.

§ 129-16. Diversion requirement adjustment.

§ 129-17. Debris recovery plan reporting requirements.

§ 129-18. Compliance with diversion requirement.

§ 129-19. Appeal.

§ 129-20. Enforcement.

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ARTICLE IV

Refuse Containers / Dumpsters

§ 129-22. Purpose.

§ 129-23. Definitions.

§ 129-24. Prohibited Conduct.

§ 129-25. Exceptions to Prohibition.

§ 129-26. Enforcement.

§ 129-27. Penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 9-14-1993 by Ord. No. 1993-17;¹ amended in its entirety 10-11-1994 by Ord. No. 1994-13. Subsequent amendments noted where applicable.]

1. Editor's Note: This ordinance also superseded former Ch. 129, Garbage, Rubbish, Refuse and Recyclables, adopted 6-9-1988 by Ord. No. 12-1988, as amended.

GENERAL REFERENCES

[Littering — See Ch. 153.](#)

ARTICLE I
Limits on Collection

§ 129-1. Maximum amounts; exceptions; special arrangements; time of placement.

- A. No person shall place more than four refuse receptacles for collection by the Borough's scavenger on any date designated as a regular pickup date. **[Amended 2-20-2007 by Ord. No. 2007-2]**
- B. Residents and/or commercial establishments which have a need for collection services greater than those permitted in this Article shall be required to make individual arrangements with scavengers to collect the amount of refuse in excess of what is permitted under this article.
- C. Any waste that is prohibited from being included as normal solid waste by a regulation of the Morris County Transfer Station, the Morris County District Recycling Plan or the New Jersey State Mandatory Source Separation and Recycling Act² shall not be collected and shall either be recycled if so designated, or private arrangements must be made for its proper disposal.
- D. Regulations concerning placement of containers or receptacles. **[Added 9-21-1999 by Ord. No. 1999-19; amended 9-19-2000 by Ord. No. 2000-22]**
- (1) All owners and tenants of all properties shall not place any containers at the designated location prior to 6:00 p.m. the evening prior to the scheduled collection and shall remove all empty containers after collection no later than 8:00 p.m. on the day of collection. **[Amended 12-2-2003 by Ord. No. 2003-25]**
 - (2) Property owners must place garbage, recyclables, etc., on their own property for pickup.
 - (3) No one shall place household garbage or recyclables in public receptacles.
 - (4) Garbage, refuse or recyclables shall be placed for collection in a watertight container, can, or barrel, made of metal or other durable material with a tight-fitting cover, constructed to prevent the spillage of its contents. The container shall be waterproof and shall not exceed 35 gallons in volume or 50 pounds in weight when filled. **[Added 2-20-2007 by Ord. No. 2007-2]**

E. Regulations Concerning Hours for Collection of Waste. **[Added 3-19-2019 by Ord. No. 2019-2]**

(1) Collection services provided by a hauler contracted by the Borough to provide service shall be conducted only within the hours provided for in the bid specifications for solid waste and recyclable material collection services promulgated by the Borough. It shall be a violation of this Chapter for any hauler to engage in collection activities outside of the hours permitted in the specifications.

(2) Privately contracted waste collection services within the Borough shall be conducted only between the hours of 7:00 a.m. and sunset, Monday through Friday. It shall be a violation of this Article for any property owner, owner/operator or lessee to allow collection and/or any hauler to engage in any collection outside of these hours.

§ 129-2. Violations and penalties. [Amended 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this article shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

2. Editor's Note: See N.J.S.A. 13:1E-99.11 et seq.

ARTICLE II

Separation of Certain Designated Materials and Recyclables
[Amended 2-20-2007 by Ord. No. 2007-2; 3-18-2008 by Ord. No. 2008-3]

§ 129-3. Definitions.

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

- A. **COMMINGLED** — A combining of nonputrescible source-separated recyclable materials for the purpose of recycling.
- B. **DESIGNATED RECYCLABLE MATERIALS** — Those materials designated within the Morris County District Solid Waste Management Plan to be source separated for the purpose of recycling. These materials include:
- C. **ALUMINUM CANS** — Cans made from aluminum that was manufactured to hold a serving of a beverage. Specifically omitted from this definition are aluminum foil and aluminum pie plates.
- D. **GLASS BOTTLES AND JARS** — Bottles and jars made from glass including clear, brown and green glass. A "bottle" is defined as a receptacle having a narrow neck and a mouth that can be corked or capped. A "jar" is defined as a wide-mouthed container that can be capped. Caps and lids not included. Specifically omitted from this definition are drinking glasses, windows, mirrors, light bulbs, and anything made of Pyrex® or ceramic.
- E. **PLASTIC BOTTLES (CODED 1 AND 2)** — Plastic bottles coded to indicate that they are comprised of the specific types of plastic compounds (polymers) known as polyethylene terephthalate (PETE) or high density polyethylene (HDPE). See symbols below. A "bottle" is defined as a receptacle having a narrow neck and a mouth that can be corked or capped. Caps and lids not included. Any item made of plastic that is not a bottle, and any plastic bottle without one of the symbols shown below is specifically omitted from this definition. Empty bottles which contained hazardous materials, such as motor oil, antifreeze, etc., should not be recycled.



- F. **STEEL (TIN) CANS** — An air-tight container for the distribution or storage of goods, composed of thin, usually ferrous, metal. Examples are soup cans and tuna fish cans.
- G. **NEWSPAPER** — A publication containing news, information and advertising, usually printed on low-cost paper called newsprint. Newspaper may include glossy inserts which come with the paper, dependent upon the market conditions at the time.
- H. **CORRUGATED CARDBOARD** — Shipping containers made with kraft paper linerboard and corrugated medium.

- I. MIXED PAPER — Various categories of recyclable paper including, but not limited to white and colored paper used in printers, photocopiers and fax machines, white and colored ledger paper, carbonless copy paper, construction paper, undeliverable mail, mailed promotional letters/advertisements/circulars, magazines, catalogues, envelopes, soft cover books.
- J. LEAVES — Vegetative material, typically generated in the autumn when they fall from trees and then are raked from residents' and/or commercial lawns.
- K. GRASS CLIPPINGS — Vegetative material generated when grass (lawns) are cut.
- L. BRUSH — Branches, woody plants and other similar vegetative material. Leaves and grass do not constitute brush.
- M. NATURAL WOOD WASTE — Logs, stumps, branches and other wood tree parts. Dimensional lumber is omitted from inclusion in this definition.
- N. OIL-CONTAMINATED SOIL — Nonhazardous soil that contains petroleum hydrocarbons (gasoline, diesel, kerosene, jet fuel, #4 and #6 heating oils and certain other refinery products including coal tar). This type of soil shall be determined to be nonhazardous in accordance with the standards set forth in N.J.A.C. 7:26.
- O. USED MOTOR OIL — Motor oil from motor vehicles, lawn mowers, boats, etc., which has served its intended useful purpose.
- P. LEAD-ACID BATTERIES — Storage batteries in which the electrodes are grids of lead containing lead oxides that change in composition during charging and discharging, and the electrolyte is dilute sulfuric acid. These include starting batteries such as car batteries that deliver a short burst of high power to start the engine. In addition, they may include deep cell batteries found on boats or campers used to power accessories like trolling motors, winches or lights.
- Q. HAZARDOUS DRY CELL BATTERIES — Rechargeable batteries, such as nickel-cadmium, nickel-iron, nickel metal hydride, lithium ion, small sealed lead acid, etc. These are often used as substitutes for non-rechargeable batteries in standard sizes such as AAA, AA, C, D and 9V. Rechargeable batteries are commonly found in cordless tools, cellular and cordless phones, laptop computers, cameras, remote controls, toys, etc. Also included in this definition are non-rechargeable batteries that are hazardous as defined by the Resource Conservation Recovery Act ("RCRA"), regardless of the RCRA exclusion of household waste from the definition of hazardous waste pursuant to 40 C.F.R. 261.4(b). Non-rechargeable, hazardous batteries include older alkaline and carbon zinc batteries as well as silver oxide, mercury and magnesium button-type batteries, etc. It should be noted that domestically manufactured alkaline and carbon zinc nonrechargeable batteries made after circa 1994 eliminated mercury content to the point that they should not be considered RCRA hazardous and therefore are not included in this material category.
- R. METAL APPLIANCES — Appliances composed predominantly of metal, and may include stoves, washing machines and dryers, for example, if the appliance is predominantly metal. Also included are air conditioners, refrigerators and dehumidifiers

if they are predominantly metal. If these appliances on the latter list contain refrigerants that are prohibited by the Clean Air Act from being knowingly vented, the refrigerant must be recovered accordingly.

S. WHOLE TIRES —

- a. Tires that are whole, not chipped into small pieces.
- b. Tires are allowed to be recycled and/or incinerated for energy recovery.

T. ELECTRONIC WASTE — A computer central processing unit and associated hardware including keyboards, modems, printers scanners and fax machines; a cathode ray tube, a cathode ray tube device, a flat panel display or similar video display device with a screen that is greater than four inches measured diagonally and that contains one or more circuit boards, including a television, and cell phones.

U. MULTIFAMILY DWELLING — Any building or structure, or complex of buildings in which three or more dwelling units are owner-occupied or rented or leased, or offered for rental or lease, for residential purposes (see N.J.S.A. 13:1E-99.13a.) and shall include hotels, motels, or other guest houses serving transient or seasonal guests as those terms are defined under Subsection (j) of Section 3 of the "Hotel and Multiple Dwelling Law," P.L. 1967, c. 76 (N.J.S.A. 55:13A-1 et seq.).³

V. MUNICIPAL RECYCLING COORDINATOR — The person or persons appointed by the governing body to fulfill the requirements of Morris County Solid Waste Management Plan and the New Jersey Statewide Mandatory Source Separation and Recycling Act and those rules and regulations promulgated therefor.

W. MUNICIPAL SOLID WASTE (MSW) STREAM — All solid waste generated at residential, commercial, and institutional establishments within the boundaries of the Borough of Butler.

X. RECYCLABLE MATERIAL — Those materials which would otherwise become solid waste, and which may be collected, separated, or processed and returned to the economic mainstream in the form of raw materials or products.

Y. SOURCE-SEPARATED RECYCLABLE MATERIALS — Recyclable materials which are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling. Source separation means the process by which recyclable materials are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling.

§ 129-4. Source separation; exemption from source separation requirements.

A. Mandatory source separation. It shall be mandatory for all persons who are owners, tenants, or occupants of residential and nonresidential premises, which shall include but not be limited to retail and other commercial locations, as well as government, schools and other institutional locations within the Borough of Butler, to separate designated recyclable materials from all solid waste. Designated recyclable materials shall be deposited separate and apart from other solid waste generated by the owners, tenants, or

3. Editor's Note: See N.J.S.A. 55:13A-3(j).

occupants of such premises and shall be placed separately at the curb in a manner and on such days and times as may be hereinafter established by regulations promulgated by the Borough of Butler.

- B. Exemptions. Pursuant to N.J.S.A. 13:1E-99.16(d), the governing body of a municipality may exempt persons occupying commercial or institutional premises within its municipal boundaries from the source separation requirements of this article which requires persons generating municipal solid waste within its municipal boundaries to source separate from the municipal solid waste stream, the specified recyclable materials if those persons have otherwise provided for the recycling of all designated recyclable materials. To be eligible for an exemption pursuant to this article, a commercial or institutional generator of solid waste shall file an application for exemption with the Municipal Recycling Coordinator on forms to be provided for this purpose. The form shall include, at a minimum, the following information: the name of the commercial or institutional entity; the street address location and lot and block designation; the name, official title and phone number of the person making application on behalf of the commercial or institutional entity; the name, address, official contact person and telephone number of the facility which provides the service of recycling those designated recyclable materials, and a certification that the designated recyclable materials will be recycled, and that, at least on an annual basis, said recycling service provider or commercial/institutional generator shall provide written documentation to the Municipal Recycling Coordinator of the total number of tons collected and recycled for each designated material.

§ 129-5. Acceptance of the municipal solid waste recycling goal.

As set forth in N.J.S.A. 13:1E-99.13b(4)(c), the Borough of Butler accepts the goal of 50% recycling of municipal solid waste by 2015 and shall monitor its level of recycling and solid waste disposal and shall strive to achieve the recycling of 50% of the municipal solid waste generated within its borders.

§ 129-6. Collection of recyclable materials.

The collection of recyclable material shall be in the manner prescribed as follows:

- A. All containers and brown paper bags containing recyclable materials shall be placed, prior to collection, between the curb and the sidewalk, or in the absence of curb and sidewalk, as near to the street as not to constitute a danger, where such receptacles shall be readily accessible to the collector without providing obstruction to pedestrians. The owner or occupant of the premises shall keep all receptacles clean and in safe handling condition. Receptacles or other items to be disposed of shall be placed as noted above anytime after 6:00 p.m. of the day immediately preceding the day of collection, but no later than 6:00 a.m. of the day of collection. After collection, any containers shall be removed from the curbside by no later than 8:00 p.m. of the day of collection.
- B. All receptacles or dumpsters shall be maintained in accordance with the Health Code of the Borough of Butler. The owner of any property shall be responsible for compliance with this Ordinance.

§ 129-7. Residential dwelling compliance requirements.

The owner of any property shall be responsible for compliance with this Ordinance. For multifamily units, the management or owner is responsible for setting up and maintaining the recycling system, including collection of recyclable materials, in accordance with guidelines or regulations established by the appropriate municipal office. Violations and penalty notices will be directed to the owner or management, in those instances where the violator is not easily identifiable. The management shall issue notification and collection rules to new tenants when they arrive and every six months during their occupancy.

§ 129-8. Nonresidential establishment compliance requirements.

- A. All commercial and institutional generators of solid waste shall be required to comply with the provisions of this Ordinance.
- B. The arrangement for collection of designated recyclables hereunder shall be the responsibility of the commercial, institutional or industrial property owner or their designee, unless the municipality provides for the collection of designated recyclable materials. All commercial, institutional or industrial properties which provide outdoors litter receptacles and disposal service for their contents shall also provide receptacles for designated recyclable materials, for those materials commonly deposited, in the location of the litter receptacle, and shall provide for separate recycling service for their contents.
- C. Every business, institution, or industrial facility shall report on an annual basis to the Recycling Coordinator, on such forms as may be prescribed, on recycling activities at their premises, including the amount of recycled material, by material type, collected and recycled and the vendor or vendors providing recycling service.
- D. All food service establishments, as defined in the Health Code, shall, in addition to compliance with all other recycling requirements, be required to recycle grease and/or cooking oil created in the processing of food or food products, and maintain such records as may be prescribed, for inspection by any code enforcement officer.

§ 129-9. New developments of multifamily residential units or commercial, institutional or industrial properties (pursuant to N.J.S.A. 13:1E-99.14a and 13:1E-99.16c).

- A. Any application to the Planning Board of the Borough of Butler, for subdivision or site plan approval for the construction of multifamily dwellings of three or more units, single family developments of 50 or more units or any commercial, institutional, or industrial development for the utilization of 1,000 square feet or more of land, must include a recycling plan. This plan must contain, at a minimum, the following:
 - (1) A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development and
 - (2) Locations documented on the application's site plan that provide for convenient recycling opportunities for all owners, tenants, and occupants. The recycling area shall be of sufficient size, convenient location and contain other attributes (signage,

lighting, fencing, etc.) in accordance with § 143-91 of the Borough of Butler Land Use Ordinance.

- B. Prior to the issuance of a certificate of occupancy by the Borough of Butler the owner of any new multifamily housing or commercial, institutional, or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of source-separated recyclable materials, in those instances where the municipality does not otherwise provide this service.

§ 129-10. Prohibition of the collection of solid waste mixed with recyclable materials.

- A. It shall be unlawful for solid waste collectors to collect solid waste that is mixed with, or contains visible signs of, designated recyclable materials. It is also unlawful for solid waste collectors to remove for disposal those bags or containers of solid waste which visibly display a warning notice sticker or some other device indicating that the load of solid waste contains designated recyclable materials.
- B. It shall be the responsibility of the resident or occupant to properly segregate the uncollected solid waste for proper disposal or recycling. Allowing such unseparated solid waste and recyclables to accumulate will be considered a violation of this article and the local sanitary code.
- C. Once placed in the location identified by this Ordinance, or any rules or regulations promulgated pursuant to this Ordinance, no person, other than those authorized by the municipality, shall tamper with, collect, remove, or otherwise handle designated recyclable materials.

§ 129-11. Enforcement.

- A. The Code Enforcement Official, the Department of Health, the Recycling Coordinator, the Property Maintenance Official, the Housing Officer, and the Morris County Department of Health are hereby individually and severally empowered to enforce the provisions of this Ordinance. An inspection may consist of sorting through containers and opening of solid waste bags to detect, by sound or sight, the presence of any recyclable material.
- C. The Director of Public Works and/or his designee and the Recycling Coordinator are hereby authorized and directed to enforce all provisions of section 3-14, Recycling Program. The Director of Public Works is authorized to delegate authority to the municipal recycling coordinator to structure the recycling program in the following manner:
- (1) Promulgate necessary schedules and instructions which, as from time to time amended, become enforceable provisions of this section when approved by the governing body.
 - (2) Supervise activities at recycling centers and collection points.
 - (3) Submit to the governing body timely budget estimates to conduct this activity.

- (4) Designate personnel, as necessary, and make available to supervise recycling and collection sites.
- (5) Plan for and furnish storage facilities for recyclables.
- (6) Record and report, as required, volumes of recyclables collected, stored, sold and otherwise disposed.
- (7) Maintain supplies of forms and distribute to businesses and collectors respectively as required.
- (8) Inspect solid waste containers at random times and places to verify compliance with this ordinance.

§ 129-12. Violations and penalties.

- A. Any person, corporation, occupant, or entity that violates or fails to comply with any provision of this Ordinance or any of the rules and regulations promulgated hereunder shall, upon conviction thereof, be punishable by a fine not less than \$25, nor more than \$1,000. Each day for which a violation of this Ordinance occurs shall be considered a separate offence.
- B. Fines levied and collected pursuant to the provisions of this Ordinance shall be immediately deposited into the Municipal Recycling Trust Fund (or equivalent). Monies in the Municipal Recycling Trust Fund shall be used for the expenses of the municipal recycling program.

ARTICLE III

**Construction, Renovation and Demolition Debris Recovery Plan
[Added 3-18-2008 by Ord. No. 2008-3]**

§ 129-13. Definitions.

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

COVERED PROJECT — A construction, renovation, or demolition project for which a building permit or a demolition permit is required, and for which a dumpster or roll off-container shall be placed on premises for the purpose of placement of solid waste materials.

§ 129-14. Construction, renovation and demolition debris recovery plan.

A debris recovery plan shall be filed with the municipal recycling coordinator prior to the commencement of any activity for which municipal approval as further identified above. The debris recovery plan shall identify the types and estimated quantities of construction and demolition debris to be generated from the project, how each material will be managed, and the name of each facility or service provider that the entity will use to manage each material. The plan shall further detail how the applicant shall ensure that a minimum of 50% of the materials to be generated will be separated and recycled.

§ 129-15. Review of debris recovery plan.

- A. Approval. A debris recovery plan shall be reviewed by the municipal recycling coordinator, and approved if it provides for all of the information required by this Ordinance. An approved debris recovery plan shall be marked "Approved" and returned to the owner of the entity which submitted the plan.
- B. Denial. A debris recovery plan shall not be approved if it does not provide all of the information required by this Ordinance. If a debris recovery plan is not approved, the owner of the entity which submitted the plan shall be notified in writing that the plan has been rejected, including the reasons for the rejection. In order to obtain the building or demolition permit sought, the owner of the entity which will carry out the construction, renovation, or demolition project shall make the required changes and resubmit the debris recovery plan to the municipal recycling coordinator.

§ 129-16. Diversion requirement adjustment.

- A. Application. If the owner of an entity carrying out a covered project experiences circumstances that make it infeasible to comply with the diversion requirement cited in this Ordinance, the owner of the entity may apply for an adjustment. The owner shall indicate in writing why it is infeasible to divert 50% of the materials being generated from the covered project and specify what percentage of diversion could be achieved. Increased costs to the owner of the entity carrying out the covered project will not be an acceptable justification for an adjustment.
- B. Review. The municipal recycling coordinator shall review the information supplied by the owner. If warranted the municipal recycling coordinator shall attempt to contact the owner to discuss possible ways of meeting the diversion requirement.
- C. Granting of an adjustment. If the municipal recycling coordinator determines that it is infeasible for the entity carrying out a covered project to divert 50% of the generated C&D debris from the covered project, the percent of diversion required shall be adjusted. The owner shall be notified in writing of the adjusted diversion requirement. The owner of the entity carrying out the covered project shall be required to divert the percent of C&D debris required by the adjustment.
- D. Denial of adjustment. If the municipal recycling coordinator determines that it is feasible for the owner of an entity carrying out a covered project to meet the diversion requirement cited in this Ordinance, the owner shall be notified in writing of the denial of the diversion requirement adjustment.

§ 129-17. Debris recovery plan reporting requirements.

Documentation. Upon completion of the covered project, but before the final inspection, the owner of the entity carrying out a covered project shall submit in person or by certified mail to the municipal recycling coordinator, the documentation required to demonstrate that the applicant has met the diversion requirement. The required documentation shall include the following:

- A. A completed debris recovery report, signed by the owner of the entity carrying out a covered project, indicating the quantity of each material generated during the covered project diverted or disposed;
- B. Receipts from all facilities or service providers utilized to divert and dispose materials generated during the covered project; and
- C. Any additional information that the owner of the entity carrying out the covered project believes is relevant to determining compliance with the diversion requirement.

§ 129-18. Compliance with diversion requirement.

The municipal recycling coordinator shall review the information submitted pursuant to this Ordinance and determine whether the owner of the entity carrying out the covered project has complied, or failed to comply with the diversion requirement. The determination regarding compliance will be provided to the owner of the entity carrying out the covered project in writing.

§ 129-19. Appeal.

An owner of the entity carrying out the covered project may appeal a determination of failure to comply under this Ordinance to the municipality within 30 days of the decision or determination. The appeal shall be in writing and shall state the facts and basis for the appeal. A decision by the Health Officer shall be final.

§ 129-20. Enforcement.

The Code Enforcement Official, the Police Department, the Department of Health, the Recycling Coordinator, the Property Maintenance Official, and the Housing Officer are hereby individually and severally empowered to enforce the provisions of this Ordinance. The respective enforcing official may, in his or her discretion, post warning stickers for a first offense. An inspection may consist of dumping and opening of solid waste bags or containers to detect, by sound or sight, the presence of any recyclable material.

§ 129-21. Violations and penalties.

Any person, corporation, occupant, or entity that violates or fails to comply with any provision of this Ordinance or any of the rules and regulations promulgated hereunder shall, upon conviction thereof, be punishable by a fine not less than \$250, nor more than \$1,000.

ARTICLE IV
Refuse Container / Dumpster
[Added 8-2-2010 by Ord. No. 2010-11]

§ 129-22. Purpose.

An ordinance requiring dumpsters and other refuse containers that are outdoors or exposed to stormwater to be covered at all times and prohibits the spilling, dumping, leaking, or otherwise discharge of liquids, semi-liquids or solids from the containers to the municipal separate storm sewer system(s) operated by the Borough of Butler and/or the waters of the State so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 129-23. Definitions.

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a. Municipal separate storm sewer system (MS4)- a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Borough of Butler or other public body, and is designed and used for collecting and conveying stormwater.
- b. Person- any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- c. Refuse container- any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.
- d. Stormwater- means water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.
- e. Waters of the State - means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

§ 129-24. Prohibited Conduct.

Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.

Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm sewer system(s) operated by the Borough of Butler.

§ 129-25. Exceptions to Prohibition.

- a. Permitted temporary demolition containers
- b. Litter receptacles (other than dumpsters or other bulk containers)
- c. Individual homeowner trash and recycling containers
- d. Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit
- e. Large bulky items (e.g., furniture, bound carpet and padding, white goods placed curbside for pickup)

§ 129-26. Enforcement.

This ordinance shall be enforced by the municipal official designated by the Borough Administrator.

§ 129-27. Penalties.

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed \$500.00.

Chapter 130

CONTAINERIZED YARD WASTE

§ 130-1. Purpose.

§ 130-2. Definitions.

§ 130-3. Prohibited conduct.

§ 130-4. Enforcement and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 5-16-2006 by Ord. No. 2006-11. Amendments noted where applicable.]

§ 130-1. Purpose.

The purpose of this chapter is to establish requirements for the proper handling of yard waste in Borough of Butler, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 130-2. Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

CONTAINERIZED — The placement of yard waste in a trash can, bucket, bag or other vessel, such as to prevent the yard waste from spilling or blowing out into the street and coming into contact with stormwater.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this state subject to municipal jurisdiction.

STREET — Any street, avenue, boulevard, road, parkway, viaduct, drive, or other way, which is an existing state, county, or municipal roadway, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas, and other areas within the street lines.

YARD WASTE — Leaves and grass clippings.

§ 130-3. Prohibited conduct.

The owner or occupant of any property, or any employee or contractor of such owner or occupant engaged to provide lawn care or landscaping services, shall not sweep, rake, blow or otherwise place yard waste, unless the yard waste is containerized, in the street. If yard waste that is not containerized is placed in the street, the party responsible for placement of the yard waste must remove the yard waste from the street or said party shall be deemed in violation of this ordinance.

§ 130-4. Enforcement and penalties.

- A. The provisions of this ordinance shall be enforced by Police Department of Butler.
- B. Any person, firm or corporation who is found to be in violation of any of the provisions of this chapter shall, upon conviction, be punished by a fine not to exceed \$1,000 or by imprisonment in the county jail for a period not to exceed 90 days, or by both such fine and imprisonment, and each violation of any of the provisions of this chapter and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

Chapter 133

HAZARDOUS MATERIALS

§ 133-1. Definitions.

§ 133-2. Purpose.

§ 133-3. Parties responsible for reimbursement.

§ 133-4. Reimbursement for services.

§ 133-5. Period for payment.

§ 133-6. Violations and penalties.

§ 133-7. Conflict with other provisions.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 7-16-1991 by Ord. No. 1991-6. Amendments noted where applicable.]

GENERAL REFERENCES

[Fire prevention — See Ch. 122.](#)

[Garbage, rubbish, refuse and recyclables — See Ch. 129.](#)

§ 133-1. Definitions.

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

EMERGENCY ACTION — All of the activities conducted in order to prevent or mitigate injury to human health or to the environment from a release or threatened release of any hazardous material into or upon the environment.

EXPENDED RESOURCES — In general, those resources expended that are reasonable, necessary and allocable to the emergency action. "Expended resources" may include but are not limited to:

- A. Disposable materials and supplies acquired, consumed and expended specifically for the purpose of the emergency action.
- B. Compensation of employees for the time and efforts devoted specifically to the emergency action.
- C. Rental or leasing of equipment used specifically for the emergency action (such as protective equipment or clothing and scientific and technical equipment).
- D. Replacement costs for equipment owned by the Borough that is contaminated beyond reuse or repair, if the equipment was a total loss and the loss occurred during the emergency action (such as self-contained breathing apparatus irretrievably contaminated during the response).
- E. Decontamination of equipment contaminated during the response.
- F. Special technical services specifically required for the response (such as costs associated with the time and efforts of technical experts or specialists not otherwise provided for by the Borough).
- G. Other special services specifically required for the emergency action.

- H. Laboratory costs of analyzing samples taken during the emergency action.
- I. Costs of cleanup, storage or disposal of the released material.
- J. Costs associated with the services, supplies and equipment procured for a specific evacuation.
- K. Medical expenses incurred as a result of response activities.
- L. Legal expenses that may be incurred as a result of the emergency action, including efforts to recover expenses pursuant to this chapter.

HAZARDOUS MATERIAL — Any material, solid, liquid or gas, classified as such by any federal legislation or regulation, by any state legislation or regulation or by any Borough ordinance.

RELEASE — Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or upon the environment which causes danger or harm to the public health or to the environment, including but not limited to the release of any material classified as hazardous material by any federal legislation or regulation, by any state legislation or regulation or by any Borough ordinance.

THREATENED RELEASE — Any imminent or impending event potentially causing but not resulting in a release, but causing the Borough to undertake any emergency action.

VEHICLE — Any motorized equipment, registered or unregistered, including but not limited to passenger cars, motorcycles, trucks, tractor-trailers, construction equipment and farm machinery.

VESSEL — Any container, drum, box, cylinder or tank used to hold or contain or carry or store any hazardous material.

§ 133-2. Purpose.

- A. This chapter provides for the reimbursement for or the replacement of the specialized and sometimes nonreusable equipment required by state and federal regulations to be made available in the Borough in case of fire, release or threatened release involving any hazardous material, as well as the reimbursement of all other costs for expended resources.
- B. This chapter entitles the Borough of Butler to reimbursement for the cost of any expended resources used by the Borough or any of its agencies in extinguishing any fire, stopping or containing any release of hazardous material and, in general, taking any emergency action.

§ 133-3. Parties responsible for reimbursement.

Reimbursement to the Borough for the costs of any expended resources shall be made by the following parties jointly and severally:

- A. The owner or operator of any vehicle responsible for or contributing to any fire, release or threatened release of hazardous material.
- B. The owner or person responsible for any vessel containing hazardous material involved in or contributing to any fire, release or threatened release on public or private property, whether stationary or in transit and whether accidental or through negligence.
- C. The owner or person responsible for any property from which any release or threatened release of hazardous material emanates, whether accidental or through negligence.
- D. Any person responsible for or contributing to any fire, release or threatened release of hazardous material on public or private property, whether accidental or through negligence.

§ 133-4. Reimbursement for services.

Any person or company responsible for or contributing to any fire, release or threatened release involving a hazardous material must provide reimbursement directly to the Borough for services rendered by any recovery company or towing company or other technical assistance called for by the Borough to handle such incident.

§ 133-5. Period for payment.

Any person, owner or company responsible for or contributing to any fire, release or threatened release of hazardous material shall reimburse the Borough of Butler for the full price of any expended resources used to extinguish such a fire or take an emergency action for any release or threatened release within a period of 45 days after receipt of a bill for such items from the Borough of Butler.

§ 133-6. Violations and penalties. [Amended 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

§ 133-7. Conflict with other provisions.

Nothing in this chapter shall be construed to conflict with state or federal laws requiring persons causing or responsible for any release or threatened release of hazardous material from engaging in remediation activities or paying the costs thereof, or both.

Chapter 136

HOUSING STANDARDS

ARTICLE I

Findings; Title

§ 136-1. Findings.

§ 136-2. Title.

ARTICLE II

Administration

§ 136-3. Officer in charge.

§ 136-4. Chapter constitutes standards for determining fitness.

§ 136-5. Promulgation of rules and regulations.

§ 136-6. Enforcement officers.

ARTICLE III

Inspection of Dwellings, Dwelling Units, Rooming Units and Premises

§ 136-7. Hours.

§ 136-8. Access to be given upon presentation of identification.

§ 136-9. Interference with inspection.

§ 136-10. Search warrant.

ARTICLE IV

Enforcement

§ 136-11. Notice of violation.

§ 136-12. Application for appropriate permits.

§ 136-13. Service of notice.

§ 136-14. Emergencies.

ARTICLE V

Minimum Standards for Basic Equipment and Facilities

§ 136-15. Compliance required.

§ 136-16. Food storage space.

§ 136-17. Cooking facilities.

§ 136-18. Kitchen sink.

§ 136-19. Toilet facilities.

§ 136-20. Bathrooms.

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§ 136-28. Water service.

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§ 136-30. Fire extinguishers.

ARTICLE VI

Minimum Standards for Light, Electrical Facilities and Ventilation

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ARTICLE XI**Compliance**

- § 136-58. Applicability.
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ARTICLE XII**Definitions**

- § 136-62. Terms defined.
- § 136-63. Meanings of certain words.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 10-2 of the Revised General Ordinances of 1976; amended in its entirety 11-21-2006 by Ord. No. 2006-26. Subsequent amendments noted where applicable.]

ARTICLE I
Findings; Title

§ 136-1. Findings.

- A. Housing exists within the Borough of Butler, which because of faulty design or construction, or failure to maintain in a proper state of repair, or lack of proper sanitary facilities, or lack of adequate lighting or ventilation, or inability to properly heat, or improper management, or any combination of these factors, has become or is becoming so dilapidated, so neglected, so overcrowded with occupants, or so unsanitary as to jeopardize or be detrimental to the health, safety, morals or welfare of the people of the Borough.
- B. Such substandard housing is a principal cause of deterioration and blight in residential areas within the Borough of Butler; and that conditions existing in such blighted areas impair the efficient and economical exercise of governmental functions and necessitate an excessive and disproportionate expenditure of Borough funds for health, welfare, public safety, fire protection and other public services.
- C. Persons owning residential property or residing within the Borough of Butler have certain responsibilities to maintain, improve or repair their dwellings so as to assure that such dwellings are safe, sanitary and decent and to eliminate and prevent the spread of neighborhood blight and the resultant problems so created for the Borough at large.
- D. There is hereby adopted for the Borough of Butler a Housing Code to establish minimum standards governing supplied utilities and facilities and other physical things and conditions essential to make dwellings safe, sanitary and fit for human habitation; to establish minimum standards governing the condition and maintenance of dwellings and dwelling units; to fix certain responsibilities and duties of owners and occupants of dwellings; and to provide for administration, enforcement and penalties for violations.

§ 136-2. Title.

This chapter shall be known and may be cited as the "Housing Code of the Borough of Butler, New Jersey."

ARTICLE II
Administration

§ 136-3. Officer in charge.

The administrative officer and enforcing authority for the provisions of this chapter shall be the Code Enforcer.

§ 136-4. Chapter constitutes standards for determining fitness.

The provisions of this chapter shall constitute the standards to guide the Code Enforcer in determining the fitness of any dwelling, dwelling unit, rooming unit or premises for human habitation, use or occupancy.

§ 136-5. Promulgation of rules and regulations.

The Code Enforcer is hereby authorized and empowered to promulgate such written rules and regulations as (s)he may deem necessary for the proper administration and enforcement of this chapter; provided, however, that such rules and regulations shall not be in conflict with any of the provisions of this chapter, nor in any way alter, amend or supersede any of the provisions thereof.

- A. The Code Enforcer shall file a certified copy of all rules and regulations which (s)he may promulgate in his/her office and in the office of the Borough Clerk.
- B. Such rules and regulations promulgated and filed by the Code Enforcer pursuant to this section shall have the same force and effect as the provisions of this chapter, and the penalty for violation thereof shall be the same as the penalty for violation of the provisions of this chapter as hereinafter provided.

§ 136-6. Enforcement officers.

The Code Enforcer, Assistant Code Enforcer and their designated representatives shall be charged with the responsibility for the enforcement of the Housing Code and all other related ordinances of the Borough. They shall be responsible for and authorized to issue and serve citations and summonses for violations of the aforesaid ordinances, and to take any other enforcement measures within the jurisdiction of the Municipal Court. They shall be deemed to be law enforcement officers of the Borough for the purpose of enforcing the Housing Code and related ordinances of the Borough. All such persons shall be required to take an oath to faithfully and impartially perform the duties of their offices.

ARTICLE III

Inspection of Dwellings, Dwelling Units, Rooming Units and Premises

§ 136-7. Hours.

- A. The Code Enforcer shall make periodic inspections to determine the condition of dwellings, dwelling units, rooming units and premises located within this Borough, in order that (s)he may perform his/her duty of safeguarding the health, safety and welfare of the occupants of dwellings and of the general public. For the purpose of making inspections, the Code Enforcer is hereby authorized to enter, examine and survey between the hours of 9:00 a.m. and 8:00 p.m. all dwellings, dwelling units, rooming units and premises.
- C. Nothing in this section shall be construed to prohibit the entry of the Code Enforcer at any time when an actual emergency which tends to create an immediate danger to public health or safety exists, or at any time when such an inspection, examination or survey may be requested by the owner or occupant.

§ 136-8. Access to be given upon presentation of identification.

The owner or occupant of every dwelling, dwelling unit or rooming unit, or the person in charge thereof, shall give the Code Enforcer upon presentation of proper identification, free access to such dwelling, dwelling unit or rooming unit and its premises during such time for the purpose of inspection, examination and survey.

§ 136-9. Interference with inspection.

Where the Code Enforcer is refused entry or access, or is otherwise impeded or prevented by the owner or occupant from conducting an inspection of the premises, such person shall be in violation of this chapter and subject to the penalties hereunder.

§ 136-10. Search warrant.

In addition to the provisions of § 136-9, the Code Enforcer may, upon affidavit, apply to the Municipal Judge of the Borough of Butler for a search warrant setting forth factually the actual conditions and circumstances that provide a reasonable basis for believing that a nuisance or violation of this chapter exists on the premises and if the Judge is satisfied as to the manner set forth in the affidavit, (s)he shall authorize the issuance of a search warrant permitting access to and inspection of that part of the premises on which the nuisance or violation may exist.

ARTICLE IV
Enforcement

§ 136-11. Notice of violation.

- A. Whenever the Code Enforcer determines that there has been a violation, or that there are reasonable grounds to believe that there has been a violation, of any provision of this chapter or of any rule or regulation adopted pursuant thereto, (s)he shall serve notice of such violation, or alleged violation, upon the person or persons responsible therefore. The notice shall be in writing and shall contain:
- (1) A description of the real estate sufficient for identification.
 - (2) A statement of the reason or reasons why it is being issued.
 - (3) A provision allowing a reasonable time for the performance of any act it requires.
 - (4) An explanation of the rights of the person upon whom the notice has been served to seek modification or withdrawal of the notice by petition to the Code Enforcer for a hearing.

§ 136-12. Application for appropriate permits.

Whenever repairs, additions, alterations or replacements are required to the building or facilities, this notice shall direct that the person in violation shall make application to the Building Inspector, Plumbing Inspector or Electrical Inspector for the appropriate permit to cover such requirements.

§ 136-13. Service of notice.

- A. Notices issued by the Code Enforcer pursuant to this chapter shall be served upon the owner and parties in interest, or the operator, occupant or any person, as the case may

require, either personally, or by leaving a copy thereof at his/her usual place of abode in the presence of a member of the family who shall be informed of the contents thereof, or if not found, by registered or certified mail, return receipt requested, to his/her last known address.

- B. If the whereabouts of such persons is unknown and the same cannot be ascertained by the Code Enforcer, the serving of the notice upon such persons may be made by publishing the same once each week for two successive weeks in a newspaper printed and published in a legal newspaper of the Borough of Butler. A copy of the notice shall be posted in a conspicuous place on the premises affected by the notice and a copy of the notice shall be duly recorded or lodged for record in the office of the Morris County Clerk.

§ 136-14. Emergencies.

Whenever the Code Enforcer finds that an emergency exists which requires immediate action to protect the public health, safety or welfare, (s)he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action to be taken as (s)he deems necessary to meet the emergency. Notwithstanding the other provisions of this chapter, such order shall be effective immediately.

ARTICLE V

Minimum Standards for Basic Equipment and Facilities

§ 136-15. Compliance required.

No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living, sleeping, cooking or eating therein, which does not comply with the requirements of this article.

§ 136-16. Food storage space.

Every dwelling unit in which the occupants prepare or are intended or permitted to prepare food for their own consumption shall contain a suitable and convenient receptacle containing at least four cubic feet of storage space maintained in good repair and in a clean state. Some part of the storage space required by this section shall be capable of sustaining a temperature low enough to preserve perishable foods for a reasonable period of time.

§ 136-17. Cooking facilities.

- A. Every dwelling unit shall contain at least one supplied kitchen gas or electric stove providing at least two top burners and an oven, not necessarily in the same unit, in good order and repair and properly connected to the appropriate utility system.
- B. Cooking facilities serving more than one dwelling unit or rooming unit or combination thereof shall not be permitted; except that nothing herein shall be construed to prohibit

the operation of hotels, boardinghouses, nursing homes and such establishments subject to licensing.

§ 136-18. Kitchen sink.

Every dwelling unit shall contain a kitchen sink of nonabsorbent impervious material in good order and repair and properly connected to the Borough water and sewer system, where available.

§ 136-19. Toilet facilities.

Every dwelling unit shall contain a room which affords privacy to a person within the room and which is equipped with a flush water closet and a lavatory basin in good order and repair and properly connected to the Borough water and sewer system or approved sanity disposal system.

§ 136-20. Bathrooms.

Every dwelling unit shall contain within a room which affords privacy to a person within the room, a bathtub or shower in good order and repair and properly connected to the Borough water and sewer system. These facilities may be situated in the same room as those required by § 136-19, and shall be accessible from within the building without passing through any part of any other dwelling unit or lodging unit and in a lodging house shall be located no farther than one floor above or below the lodging units served.

§ 136-21. Water connections.

Every kitchen sink, lavatory basin, and bathtub or shower required under the provisions of §§ 136-18, 136-19 and 136-20 shall be properly connected with both hot and cold waterlines.

§ 136-22. Garbage storage.

Every dwelling unit shall be provided with a watertight container, provided with a tight-fitting cover, of metal or other approved material, the type and location of which is approved by the Code Enforcer.

§ 136-23. Heat requirements.

Every dwelling, business and commercial building shall have supplied heating facilities which are properly installed, are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments in every dwelling unit located therein to a temperature of at least 68° F., when the outdoor temperature is at or above 0° F. The temperature shall read at a height of three feet above floor level at the center of the room.

§ 136-24. Prohibited heating equipment.

Portable heating equipment employing flame and the use of solid, liquid or gaseous fuels is prohibited.

§ 136-25. Water-heating facilities.

Every dwelling unit shall have supplied water-heating facilities which are properly installed, are maintained in safe and good working condition, are properly connected with the hot water lines required under the provisions of § 136-21 of this chapter, and are capable of heating water to such a temperature as to permit an adequate amount of water (not less than one gallon per minute) to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 120° F. Such supplied water-heating facilities shall be capable of meeting the requirements of this section when the dwelling or dwelling unit heating facilities required under provisions of § 136-23 are not in operation.

§ 136-26. Insect control.

From May 1 to October 1 of each year, and when deemed necessary by the Code Enforcer for protection against mosquitoes, flies and other insects, every door opening directly from a dwelling unit to outdoor space, and being used for ventilation purposes, shall have supplied screens and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens of not less than No. 16 mesh covering at least 11% of the window area; except that such screens shall not be required during such period in rooms deemed by the Code Enforcer to be located high enough in the upper stories of buildings as to be free from such insects, or where room or central air conditioning is installed and operating.

§ 136-27. Rodent control.

Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide for entry of rodents, shall be supplied with a screen or other such device as will effectively prevent their entrance.

§ 136-28. Water service.

Every dwelling unit shall be provided with water service from the municipal water utility when available. In the event that a water customer, as defined by Chapter 234, Water, on an account for a residential property which is occupied by persons whose supply of water is dependent upon the customer's timely payment of water utility charges fails to pay a water or sewer bill, or otherwise jeopardizes the continuation of the service of water to such dwelling unit, such person constituting the water customer shall be in violation of this section and shall be deemed to have failed to provide such dwelling unit with water, regardless of whether water service is actually terminated. A customer shall be in violation of this section if notice of termination of water service is issued to him/her and (s)he fails to cause such notice to be withdrawn, canceled or extended by making timely payment or other arrangements within the time period specified in the termination notice. Violations of this section shall be punishable

in accordance with Chapter 230 of the General Code of the Borough of Butler; provided, however, that upon the issuance of a citation for a violation of this section, a separate violation shall be deemed to have occurred for every twenty-four-hour period subsequent to the issuance of the citation that the customer shall fail to cause such notice of termination to be withdrawn, canceled or extended.

§ 136-29. Smoke and carbon monoxide detector devices.

No person shall occupy or let to another any dwelling or dwelling unit for the purpose of occupancy therein which does not comply with the requirements of this section.

A. Definition. As used in this section, the following terms shall have the meanings indicated:

CARBON MONOXIDE DETECTION DEVICE — A device which is capable of detecting an invisible, odorless, tasteless, gas produced when fossil fuels do not burn completely or are exposed to heat (usually fire).

SMOKE DETECTOR — Devices which detect visible and invisible particles of combustion and meet the listing criteria of UL217.

B. Applicability.

- (1) In all dwellings and dwelling units in the Borough, a smoke detection device shall be installed in accordance with the requirements herein. Battery-powered smoke detection devices shall be acceptable as meeting the minimum requirements of this subsection. Electric-powered smoke detectors, whether interconnected or single-station units, shall also meet the requirements of this subsection.
- (2) In all dwelling and dwelling units of the Borough a carbon monoxide detection device shall be installed in accordance with the requirements herein. Battery-powered detection devices shall be acceptable as meeting the minimum requirements of this subsection.

C. Where required.

- (1) A smoke detection device shall be installed on each level of all one-and two-family dwellings and dwelling units, Use Group R-3.
- (2) The smoke detection device shall be installed as follows:
 - (a) On the under side of the header at the bottom of the stairs of the cellar/basement.
 - (b) On the first floor in the living room or near the stairs to the second floor.
 - (c) On the second floor outside of the doors to bedrooms within 10 feet of the sleeping area.
 - (d) On the third floor, should this room be finished with interior walls and ceilings and accessible by fixed stairs, regardless of use.

- (3) Nothing in this subsection shall be construed or interpreted to in any way impair the authority of the Code Enforcer to require additional smoke detectors as may be deemed necessary.
- (4) Except as provided above, all detectors shall be securely mounted on the ceiling surface at least six inches from the nearest wall, or in accordance with the manufacturer's specifications.

D. Responsibility.

- (1) The owners or managing agents of any dwelling or dwelling unit shall install and maintain carbon monoxide detectors in full operating condition as described herein.
- (2) It shall be the duty of the tenant or occupant of a dwelling unit, at his/her own expense, to maintain and replace all batteries for battery-operated carbon monoxide detector devices installed by the owner in such dwelling units. Any tenant or occupant who fails to so maintain and replace such batteries shall be guilty of violating this subsection.

E. Interference with operation prohibited. It shall be unlawful for any tenant, occupant, owner, agent or any other person to tamper with, damage, destroy, steal, paint over or do anything to cause such smoke detectors or any of its parts to malfunction or fail to operate.

F. Violations and penalties. Any person guilty of violating the provisions of this section, upon conviction, shall be subject to the penalties set forth in Chapter 230 of the General Code of the Borough of Butler.

G. Applicability. In all dwellings and dwelling units of the Borough, a carbon monoxide detection device shall be installed in accordance with the requirements herein. Battery-powered detection devices shall be acceptable as meeting the minimum requirements of this subsection.

H. Where required. A carbon monoxide detection device should be centrally located outside of each separate sleeping area in the immediate vicinity of the bedrooms. If the bedroom hallway is longer than 40 feet, the installation of a device shall be required at both ends of the hallway.

- (1) In dwellings containing more than one unit of dwelling space there shall be a detector required for each dwelling unit of the structure.
- (2) Nothing in this subsection shall be construed or interpreted to in any way impair the authority of the Code Enforcer to require additional carbon monoxide detection devices as may be deemed necessary.

I. Responsibility.

- (1) The owners or managing agents of any dwelling or dwelling unit shall install and maintain smoke detectors in full operating condition as described herein.
- (2) It shall be the duty of the tenant or occupant of a dwelling unit, at his/her own expense, to maintain and replace all batteries for battery-operated smoke detector

devices installed by the owner in such dwelling units. Any tenant or occupant who fails to so maintain and replace such batteries shall be guilty of violating this subsection.

- J. Certificate of smoke detector and carbon monoxide alarm compliance required.
- (1) Prior to any change in ownership of any dwelling, inhabited or intended to be inhabited, a certificate of smoke detector and carbon monoxide alarm compliance shall first have been obtained from the Code Enforcer, stating that the building and premises comply with the section.

§ 136-30. Fire extinguishers.

- A. Each structure, other than a seasonal rental unit, shall also be equipped with at least one portable fire extinguisher. Portable fire extinguisher means an operable portable device, carried and operated by hand, containing an extinguishing agent that can be expelled under pressure for the purpose of suppressing or extinguishing fire, and which is: [1] rated for residential use consisting of an ABC type; [2] no larger than a 10 pound rated extinguisher; [3] mounted within 10 feet of the kitchen area, unless otherwise permitted by the Code Enforcer.
- B. Responsibility. The owners or managing agents of any dwelling or dwelling unit shall install and maintain fire extinguishers in full operating condition as described herein.
- C. Certificate required. Prior to any change in ownership of any dwelling, inhabited or intended to be inhabited, a certificate of fire extinguisher compliance shall first have been obtained from the Code Enforcer, stating that the building and premises comply with the section.

ARTICLE VI

Minimum Standards for Light, Electrical Facilities and Ventilation

§ 136-31. Compliance required.

No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the requirements of this article.

§ 136-32. Lighting.

- A. Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of the room. Whenever walls or other portions of structures face a window of any such room and such light-obstructing structures are located less than three feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included in calculating the required minimum total window area. Whenever the only window in a room is a skylight type in the top of such room, the total window area of the skylight shall equal at least 15% of the total floor area of the room.

- B. Every habitable room in any dwelling shall contain at least two separate wall-type electric convenience outlets, each of which shall be a minimum of a double outlet; or one such double-convenience outlet and one ceiling- or wall-type electric light fixture.
- C. Every bathroom and water closet compartment shall contain at least one ceiling or wall-type light fixture.
- D. Every portion of each staircase, hall, cellar, basement, landing, furnace room, utility room and all similar nonhabitable space located in a dwelling shall have artificial light available at all times, with an illumination of at least two lumens per square foot (two footcandles) in the darkest portion.
- E. Every portion of any interior or exterior passageway or staircase common to three or more families in a dwelling shall be illuminated at all times with light of at least two lumens per square foot (two footcandles) in the darkest portion of the normally traveled stairs and passageways. In dwellings comprising two dwelling units, such illumination shall not be required at all times if separate switches for the control of such light, convenient and readily accessible to each dwelling unit, are provided.
- F. Every electrical outlet and fixture required by this section shall be properly installed and maintained in good and safe condition so as not to cause a fire or electrical shock hazard and shall be properly connected to the source of electric power. Without restricting the generality of this subsection, no temporary wiring shall be used except extension cords in good and safe condition which run directly from portable fixtures or appliances to convenience outlets, and which do not lie under rugs or other floor coverings, nor extend through doorways, transoms or other openings through structural elements.

§ 136-33. Ventilation.

- A. Every habitable room shall have at least one easily operable window or skylight or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area or minimum skylight-type window size, as required in § 136-32A, except where there is supplied some other device affording adequate ventilation providing at least two air changes per hour and approved by the Code Enforcer.
- B. Every bathroom and water closet compartment shall comply with the ventilation requirements for habitable rooms contained in Subsection A, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet compartments equipped with a ventilation system providing at least six air changes per hour which is operated either continuously or automatically when in use and is approved by the Code Enforcer.
- C. Every public hall and stairway in every multiple dwelling and rooming house shall be adequately ventilated.
- D. Utility spaces which contain heat-producing, air-conditioning and other operating mechanical equipment shall be ventilated to the outer air, and air from such spaces shall not be recirculated to other parts of the building.

- D. Natural ventilation of spaces such as attics and enclosed basementless spaces shall be provided by openings of sufficient size to overcome dampness and minimize the effect of conditions conducive to decay and deterioration of the structure, and to prevent excessive heat in attics.

ARTICLE VII

Minimum Space, Use and Location Requirements

§ 136-34. Compliance required.

No person shall occupy or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements.

§ 136-35. Floor space.

- A. Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area, exclusive of stairways.
- B. In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor space. Every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor space for each occupant thereof. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

§ 136-36. Ceiling height.

- A. At least 1/2 of the floor area of every habitable room shall have a ceiling height of at least seven feet; and the floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.
- B. Every bathroom, toilet compartment, utility room, hall and passageway shall have a clear ceiling height of at least six feet eight inches.

§ 136-37. Use.

- A. No cellar space shall be used as a habitable room or dwelling unit.
- B. No basement space shall be used as a habitable room or dwelling unit unless:
- (1) The floor and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness.

- (2) The total of the window area in each room is equal to at least the minimum window area sizes as required by § 136-32 and is located entirely above the grade of the ground adjoining such window area.
 - (3) The total of openable window area in each room is equal to at least the minimum as required under § 136-33, except where there is supplied some other device affording adequate ventilation and approved by the Code Enforcer.
 - (4) There are no pipes, ducts or other obstructions less than six feet six inches above the floor level.
 - (5) All furnaces or other heating facilities are so located, insulated and separated from the living area by fireproof partitions or walls necessary pursuant to regulations of the Fire Chief so that the same does not constitute an undue hazard to the safety and health of the occupants.
 - (6) There is a second means of egress conforming to the requirements of § 136-41A.
- C. An interior room not having its own source of natural light and ventilation may be used for living purposes, other than sleeping, only where such room is adjacent to an outside room which has adequate natural light and ventilation, calculated on the basis of the combined floor area of the two rooms, and where the separating wall between the two rooms has a clear horizontal opening, doorway or archway at least six feet wide.

§ 136-38. Location of sleeping rooms.

- A. No dwelling or dwelling unit containing two or more sleeping rooms shall have such rooms so located that access to a bathroom or water closet compartment, intended for use by occupants of more than one sleeping room, can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or bathroom or water closet compartment.
- B. No bed may be located or placed in a basement for sleeping purposes. A bed may be stored in a basement in a disassembled or upright position only. Where a room is partly underground and having more than 1/2 of its clear height above finished grade, said space may be used as a dwelling unit subject to meeting the following criteria in addition to any other applicable provisions of the Zoning Ordinance or Housing Ordinance of the Borough of Butler:
- (1) The floor level of rooms used for sleeping is less than 3 1/2 feet below the average grade of ground adjacent to and within 15 feet of the exterior walls of such rooms and the floors and walls are impervious to leakage of underground and surface runoff water and are insulated against dampness, and provided that the windows thereof are at least 15 feet from the nearest building or wall.
 - (2) The total of window area in each room is equal to at least the minimum window area size as required in Subsection A of § 136-33.

- (3) Such required minimum window area is located entirely above the grade of the ground adjoining such window area.
- (4) The total of openable window area in each room is equal to at least the minimum as required under Subsection B of § 136-33, except where there is supplied some other device affording adequate ventilation and approved by the public officer.

§ 136-39. Overcrowding.

Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 136-39.5

**Table 136-39.5 — Minimum Area Requirements
Minimum Area in Square Feet**

Space	1-2 Occupants	3-5 Occupants	6 or More Occupants
Living Room ^{a, b}	No requirements	120	150
Dining Room ^{a, b}	No requirements	80	100
Kitchen	50 square feet	50	60
Bedrooms	Shall comply with Section 136-35B		

NOTES:

^a See Subsection B for combined living room/dining room spaces.

^b See Subsection A for limitations on determining the minimum occupancy area for sleeping purposes.

- A. Sleeping areas. The minimum occupancy area required by Table 136-39.5 shall not be included as a sleeping area in determining the minimum occupancy for sleeping purposes. All sleeping areas shall comply with Section 136-35B.
- B. Combined spaces. Combined living room, dining room and kitchen spaces shall comply with the requirements of Table 136-39.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room and/or kitchen. There must be a kitchen.

§ 136-40. Efficiency unit.

Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

- A. A unit occupied by not more than two occupants shall have a clear floor area of not less than 220 square feet. A unit occupied by three occupants shall have a clear floor area of not less than 320 square feet. These required areas shall be exclusive of the areas required by Items 2 and 3.

- B. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front. Light and ventilation conforming to this code shall be provided.
- C. The unit shall be provided with a separate bathroom containing a water closet, lavatory, and bathtub or shower.
- D. The maximum number of occupants shall be three.

§ 136-41. Exitways.

- A. Safe exitway. Every dwelling unit shall have a safe and unobstructed means of exit leading to a safe and open space at ground level accessible to a street.
- B. Secondary exitway.
 - (1) Buildings containing two or more dwelling units and three or more stories in height above grade shall have a suitable and separate secondary exit.
 - (2) This secondary exit shall be made accessible by a doorway or openable window to a protected stairway or fire escape providing a safe path of escape in case of emergency.
- C. Direct access to exitway. Access to any exit required by this section shall not necessitate passage through any other dwelling unit or part thereof, nor shall any exit be subject to locking by any device which impedes or prohibits ready exit.
- D. Window exits. Where the secondary exit is by means of an openable window, the opening shall be at least five square feet in area, with a minimum dimension of 20 inches. The bottom of the opening or sill height shall not be more than three feet six inches above the floor and shall lead directly to the fire escape. Where storm windows, screens or burglar guards are used, these shall be readily openable from the inside.
- E. Applicability. This section shall apply to all existing structures deemed subject to the provisions of this chapter by the Code Enforcer of the Borough of Butler in accordance with § 136-123, Applicability.
- F. Exceptions. The issuance of a valid certificate of occupancy or continued certificate of occupancy by the Construction Official with regard to buildings deemed subject to the provisions of this section shall, in fact, satisfy the intent of this section. The Code Enforcer shall be empowered to grant reasonable waivers in cases where strict compliance with the requirements hereof would cause a hardship and where a waiver would not substantially frustrate the purposes of this section.

ARTICLE VIII

Responsibilities of Owners for Maintenance of Dwellings and Dwelling Units**§ 136-42. Responsibility of owner and operator for exterior of premises.**

- A. Generally. Owners and operators shall have the duties and responsibilities as described in this code and the regulations promulgated pursuant thereto and no owner or operator shall be relieved from any such duty and responsibility nor be entitled to defend against any charge of violation thereof by reason of the fact that the occupant is also responsible therefor and in violation thereof.
- B. Free of hazards and unsanitary conditions. The exterior of the premises and all structures thereon shall be kept free of all nuisances and any hazards to the safety of occupants, pedestrians and other persons utilizing the premises and shall be kept free of unsanitary conditions, and any of the foregoing shall be promptly removed and abated by the owner or operator. It shall be the duty of the owner or operator to keep the premises free from hazards which include but are not limited to the following:
- (1) Rubbish. Brush, weeds, broken glass, stumps, roots, obnoxious growths, filth, garbage, trash, refuse and debris, etc., are prohibited upon properties.
 - (2) Natural growth. Dead and dying trees and limbs or other natural growth which by reason of rotting or deteriorating condition or storm damage constitute a hazard to persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such condition.
 - (3) Overhangings. Loose and overhanging objects and accumulations of ice and snow which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.
 - (4) Ground surface hazards and unsanitary conditions. Holes, excavations, breaks, projections, obstructions, icy conditions, uncleared snow, excretions of pets and other animals on paths, walks, driveways and other parts of the premises which are accessible to and are used by persons on the premises of all such holes and excavations shall be filled and repaired, walks and steps replaced and other conditions removed where necessary to eliminate hazards or unsanitary conditions with reasonable dispatch upon their discovery.
 - (5) Recurring accumulations of stormwater. Adequate runoff drains shall be provided and maintained to eliminate any such recurrence or excessive accumulation of stormwater. Such stormwaters shall not be drained to driving, parking or walking areas.
 - (6) Inoperable motor vehicles. No inoperable or currently unregistered or uninspected motor vehicle shall be parked, stored or left on any residential, multifamily or shopping center property except inside a garage or enclosed building.
 - (7) Parking of motor vehicles.
 - (a) The parking of any motor vehicle by an owner, occupant or operator on the lawn of any residential property is strictly prohibited.

(d) All vehicles must park on an improved surface, either paved by asphalt or similar-type material or stoned as a parking area in accordance with the requirements of Chapter 143, Zoning Ordinance.

(8) Maintenance of sidewalks and curbs. It shall be the duty and responsibility of the owner of property on which and along which sidewalks and curbs are located to keep such sidewalks and curbs in a proper condition of maintenance and good repair, including but not limited to a condition whereby such sidewalks and curbs are free of obstruction, debris, cracks and crevices or other unsafe conditions.

§ 136-43. Occupancy conditions.

- A. No owner shall occupy or rent to any other person for occupancy or allow any other person to occupy any vacant dwelling unit unless it is reasonably clean, sanitary and complies with all the provisions of this chapter and all rules and regulations adopted pursuant thereto.
- B. No owner shall occupy or rent to any other persons for occupancy or allow any other persons to occupy any dwelling or dwelling unit unless (s)he has informed such persons, in writing, of the maximum number of occupants that may live in the dwelling or dwelling unit.
- C. No owner shall occupy or rent to any other person for occupancy or allow any other person to occupy a vacant building which, by virtue of a cited violation, has been determined to require a certification of the facilities, utilities or structural integrity that may affect the health, safety and welfare of those persons on or near the premises.

§ 136-44. Facilities and equipment.

- A. It shall be the owner's responsibility to supply, unless otherwise provided for under lease agreement, all of the equipment and facilities required by this chapter, except that in dwellings containing no more than three units it shall be the responsibility of the occupant of each dwelling unit to furnish receptacles required for temporary storage of rubbish and garbage until removal from the premises.
- B. Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function properly and shall be maintained by the owner in reasonably good working condition.
- C. The owner is responsible for all repairs and maintenance to supplied facilities and equipment required by this chapter regardless of any agreement or lease entered into between owner and occupant.

§ 136-45. Interruption of services.

No owner or operator shall cause any service, facility, equipment or utility which is required to be supplied under the provisions of this chapter to be removed from, shut off from, or discontinued for any occupied dwelling or dwelling unit let or occupied by him/her, except for

such temporary interruption as may be necessary while actual repairs, replacements or alterations are in process of being made.

ARTICLE IX

Responsibilities of Occupants for Maintenance of Dwellings and Dwelling Units

§ 136-46. Cleanliness and sanitation.

Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises, including the yard and accessory buildings thereof, which (s)he occupies and controls.

§ 136-47. Rubbish and garbage disposal.

- A. Every occupant of a dwelling or dwelling unit shall dispose of all rubbish in a clean and sanitary manner by placing it in the rubbish containers required by § 136-22.
- B. Every occupant of a dwelling unit in a dwelling containing no more than three dwelling units shall be responsible, unless provided for otherwise under a lease agreement, for the periodic removal of all garbage and rubbish from the premises in accordance with such regulation of the Borough for the collection of garbage and rubbish.

§ 136-48. Screens and storm windows.

Every occupant of a dwelling or dwelling unit shall be responsible for hanging all screens and double or storm windows whenever the same are required under the provisions of this chapter or of any rule or regulation adopted pursuant thereto, except where the owner has agreed to supply such service.

§ 136-49. Pest extermination.

Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his/her dwelling unit is the only one infested. Notwithstanding the provisions of this section, whenever infestation is caused by failure of the owner to maintain a dwelling in a rat-proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner.

§ 136-50. Facilities and fixtures.

- A. Every occupant of a dwelling unit shall keep all food storage receptacles, cooking facilities and plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.
- B. Every occupant of a dwelling unit shall be responsible for the exercise of reasonable care, proper use and proper operation of supplied heating facilities.

- C. Every occupant of a dwelling unit which is let or rented from another shall be responsible for the exercise of reasonable care and the proper use of the dwelling unit, and its component parts, and supplied facilities, equipment, fixtures and furnishings.

§ 136-51. Occupancy of dwelling units in violation prohibited.

No occupant shall occupy or permit the occupancy of any dwelling or dwelling unit in violation of the occupancy standards established in this chapter.

§ 136-52. Access to premises.

Every occupant of a dwelling or dwelling unit, shall give the owner thereof, or his/her agent or employee, access to any part of such dwelling or dwelling unit, or its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful rule or regulation adopted or any lawful order issued pursuant to the provisions of this chapter.

§ 136-53. Security devices.

- A. No landlord shall interfere with or prohibit any lessee from making any modification to the security device or devices securing the doorway entrances or other accessible openings to any residential dwelling unit. However, it shall be the obligation of any lessee to make such modification or addition to existing security devices in a reasonable and proper manner without damaging or defacing the premises and in strict conformance with all laws, regulations and ordinances governing buildings, including the Fire Prevention Code, the Life Safety Code and the Code of the National Fire Protection Association. Further, the lessee shall be obligated to provide the landlord, or his/her designee, with the appropriate key or other aid or instruction necessary to enable the landlord to gain access to such premises in accordance with his/her responsibilities and authorities as landlord.

- B. As used in this subsection the following words shall have the following meanings:

ACCESSIBLE OPENINGS — Any doorway, window or other opening in the premises through which an adult person could reasonably gain access to the interior of the premises.

LANDLORD — Any individual, group of individuals, corporation or other business association which owns any real property which is leased, in whole or in part, to any person for residential or business purposes, for any term, with or without a formal lease.

SECURITY DEVICE — Any form of lock or locking device which is operated by key or by lever action or sliding bolt, but excluding combination locks.

ARTICLE X
Violations

§ 136-54. Violations and penalties.

Any person violating any order of the Code Enforcer based on the provisions of this chapter or any provision of any rule or regulation adopted for the enforcement or implementation of this chapter, or violating any provision of this chapter or any provision of such rule or regulation shall, upon conviction, be subject to the penalty prescribed in Chapter 230, General Code of the Borough of Butler.

§ 136-55. Violation of orders.

After conviction and punishment for violation of an order of the Code Enforcer based upon the provisions of this chapter or any provision of any rule or regulation adopted for the enforcement or implementation of this chapter, if the person shall continue in violation of the order, then the person shall be liable for further prosecution, conviction and punishment upon the same order, without any necessity of the Code Enforcer issuing a new order, until the order has been complied with.

§ 136-56. Fines collectible as liens.

In the event of the imposition of a fine or penalty by the Municipal Court or any other court of competent jurisdiction against the owner or operator of any dwelling for violation of this chapter, the fee or penalty shall be collectible as a lien against the premises.

§ 136-57. Abatement of nuisances.

Nothing in this chapter shall be construed or interpreted to in any way impair or limit the authority of the Code Enforcer to define and declare nuisances and to cause the removal or abatement of nuisances by appropriate proceedings provided by law.

ARTICLE XI
Compliance

§ 136-58. Applicability.

Every residential structure and premises located within the Borough of Butler, used or intended to be used for dwelling purposes, shall comply with the provisions of this chapter.

§ 136-59. Minimum standards.

The provisions of this chapter are to establish minimum standards for the continued occupancy and use of dwellings and dwelling units and shall not abrogate the responsibility of any person to comply with the provisions of zoning, building, fire, safety, electrical, plumbing or public health ordinances of the Borough of Butler or of any New Jersey licensing statutes.

§ 136-60. Conformity with Building Code.

All repairs, additions, alterations, or replacements in dwellings, dwelling units or premises to bring such dwellings, dwelling units or premises into compliance with this chapter shall conform to all Borough ordinances governing the construction, replacement, repair or alteration of such dwellings, dwelling units, premises, facilities and equipment contained therein.

§ 136-61. Conflicts.

In any case where a provision of this chapter is found to be in conflict with a provision of any zoning, building, fire, safety, electrical, plumbing or public health ordinance of the Borough the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail.

ARTICLE XII
Definitions

§ 136-62. Terms defined.

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

ACCESSORY BUILDING — A building or structure, the use of which is incidental to the use of a dwelling and which is located in the yard around the dwelling.

AGENT —

A. Any person who alone, jointly or severally with others shall:

- (1) By virtue of any agreement, written or oral, with the owner be held, concurrently with the owner, responsible for the occupancy, charge, care, maintenance or transfer of title of such property.
- (2) Include but not be limited to attorneys, real estate agents, brokers, managers or salespersons, rental agents or managers, executors, administrators, trustees, or heirs, persons acting on behalf of a decedent or an incompetent or disabled individual, or persons acting generally on behalf of another with their expressed or implied permission in regards to the property.

B. Any such person thus representing the owner shall be bound to comply with the provisions of this chapter and of the rules and regulations adopted pursuant thereto, to the same extent as if (s)he were the owner.

ATTIC — Uninhabitable space directly below the roof.

BASEMENT — A portion of a building located partly underground, but having 3 1/2 feet or more of its floor-to-ceiling height above the average level of the adjacent finished grade.

BEDROOM — See SLEEPING AREA.

CELLAR — A portion of a building located partly or wholly underground and having less than 3 1/2 feet or more of its floor-to-ceiling height above the average grade level of the adjacent finished grade.

CODE ENFORCER — The Code Enforcer of the Borough of Butler or authorized representative.

DWELLING — Any house or building or portion thereof which is used or intended to be used in whole or in part as a home, residence or sleeping place of one or more human beings, either permanently or transiently; and shall include any building that could be or would be intended to be used for such purposes except for its state of disrepair.

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

EXTERMINATION — The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized and legal pest-elimination methods approved by the Code Enforcer.

FAMILY — An individual or married couple and children thereof with not more than two other persons related directly to the individual or married couple by blood or marriage or a group of not more than five unrelated persons, living together as a single housekeeping unit in a dwelling unit.

GARBAGE — The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM/SPACE — A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, pantries, foyers or communicating corridors, closets and storage spaces.

INFESTATION — The presence, within or around a dwelling, of any insects, rodents or other pests.

NUISANCE —

- A. Any public nuisance known at public law or in equity jurisprudence, or as provided by the statutes of the State of New Jersey or the ordinances of the Borough of Butler.
- B. Any attractive nuisance which may prove detrimental to the health or safety of children whether in a building, on the premises of a building, or upon an unoccupied lot, including, but not limited to, abandoned wells, shafts, basements, excavations, abandoned ice boxes, refrigerators, motor vehicles, any structurally unsound fences or structures, lumber, trash, fences, debris and vegetation such as poison ivy, oak or sumac, which may prove a hazard for inquisitive minors.
- C. Physical conditions dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist.
- D. Overcrowding of a room with occupants in violation of this chapter.

- E. Insufficient ventilation or illumination in violation of this chapter.
- F. Inadequate or unsanitary sewage or plumbing facilities in violation of this chapter.
- G. Unsanitary conditions or anything offensive to the senses or dangerous to health in violation of this chapter.
- H. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings.
- I. Fire hazards.

OCCUPANT — Any person, over one year of age, living, sleeping, cooking or eating in or having actual possession of a dwelling unit or rooming unit.

OPERATOR — Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

OWNER —

- A. Any person who, alone or jointly or severally with others, shall have:
 - (1) Legal equitable title to any dwelling or dwelling unit, with or without accompanying actual possession thereof.
 - (2) Charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, or guardian of the estate of the owner.
- B. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter and of rules and regulations adopted pursuant thereto, to the same extent as if (s)he were the owner.

PARTIES IN INTEREST — All individuals, associations and corporations who have interest of record in a dwelling and who are in actual possession of the dwelling.

PERSON — Any individual, firm, corporation, association or partnership.

PLUMBING — All of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

PREMISES — A lot, piece or parcel of land including the buildings or structures thereon.

REPAIR — To restore to a sound and acceptable state of operation, serviceability or appearance. Repairs shall be expected to last approximately as long as would the replacement by new items.

REPLACE — To remove an existing item or portion of a system, and to construct or install a new item of similar or improved quality as the existing item when new. Replacement will ordinarily take place where the item is incapable of repair or where repair would be more costly.

ROOMING HOUSE — Any lodging house, boardinghouse or nursing home, including hotels, tourist homes, fraternity and sorority houses, or any dwelling, or that part of any dwelling, containing three or more rooming units each of which is rented by one or more persons not related to the owner or operator.

ROOMING UNIT — Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH — Combustible and noncombustible waste materials, except garbage; and the term shall include the residue from the burning of wood, coal, coke and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

SLEEPING AREA — Room designed for sleeping purposes only. Sleeping areas cannot be combined with other uses, such as living room, dining room, kitchen, den, porches, etc.

SUPPLIED — Paid for, furnished or provided by, or under the control of, the owner or operator.

TENEMENT HOUSE — As defined by state statute, any house or building or portion thereof which is rented, leased, let or hired out to be occupied or is occupied as the home or residence of three families or more living independently of each other and doing their cooking upon the premises. This definition shall not apply to a detached dwelling house of not more than three stories and having central heating, and which is occupied for occupancy by three families living independently where the space provided for at least one of such families is not equipped with full cooking facilities.

YARD — The land, other than publicly owned land, around and appurtenant to the whole or any part of a dwelling and used or capable of being used in connection with the dwelling, whether or not the land is owned by the owner of the building.

§ 136-63. Meanings of certain words.

Whenever the words "dwelling," "dwelling unit," "rooming unit," and "premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

Chapter 139

INSURANCE

ARTICLE I

Fire Insurance Claims

§ 139-1. Conditions for payment.

§ 139-2. Filing of copy.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Fire Insurance Claims

[Adopted 11-11-1980 by Ord. No. 80-21]

§ 139-1. Conditions for payment.

Pursuant to N.J.S.A. 17:36-8, no insurer issuing fire insurance policies in the State of New Jersey shall make payment to any claimant of any claim in excess of \$2,500 for fire damages on real property located within the Borough of Butler, County of Morris, pursuant to any fire insurance policy issued or renewed after the adoption of this Article until such time as all taxes and assessments and all other municipal liens or charges due and payable appearing on an official certificate of tax search issued by the Borough's Tax Search Office shall have been paid either by the owner of such real property or by the insurance company unless the Borough of Butler shall adopt a resolution providing for the payment of said liens in installments pursuant to N.J.S.A. 17:36-11.

§ 139-2. Filing of copy.

A certified copy of this Article shall be filed with the State Commissioner of Insurance for the State of New Jersey.

Chapter 143

LAND USE

Part 1

General Provisions

ARTICLE I

Title, Purpose, Scope

- § 143-1. Title.
- § 143-2. Purpose.
- § 143-3. Scope.

ARTICLE II

Word Usage and Definitions

- § 143-4. Word usage.
- § 143-5-5A. Definitions.

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Planning Board and Board of Adjustment

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- § 143-7. Terms.
- § 143-8. Vacancies.
- § 143-9. Organization of Board.
- § 143-10. Planning Board Attorney.
- § 143-11. Experts and staff.
- § 143-12. Powers and duties generally.
- § 143-13. Advisory Committee.

ARTICLE IV

Zoning Board of Adjustment

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- § 143-15. Abolishment of Zoning Board of Adjustment; discharge of members.
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- § 143-28. Meetings.
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- § 143-173. Cannabis Retail and Medical Cannabis Dispensary Establishment.
- § 143-173.1. Wireless telecommunications antennas and facilities.
- § 143-173.2. Home occupation.
- § 143-173.3. Keeping of animals.
- § 143-173.4. Self Storage Facilities.

ARTICLE XXI**Signs**

- § 143-174. General sign provisions
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Checklist No. 1, Checklist for Determining Completeness of Application for Development

Checklist No. 2, Checklist for Determining Completeness of Variance or Appeal

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler by Ord. No. 2006-27. Amendments noted where applicable.]

Part 1
General Provisions

ARTICLE I
Title, Purpose, Scope

§ 143-1. Title.

Chapter 143 of the Revised General Ordinances of the Borough of Butler otherwise known as the "Land Use Ordinance of the Borough of Butler" shall be amended to read in its entirety as follows:

§ 143-2. Purpose.

The purpose of this chapter shall, in general and where applicable to local conditions in the Borough of Butler, be the purpose of the Municipal Land Use Law, Chapter 291 of the Laws of 1975, as set forth in Section 2 (N.J.S.A. 40:55D-2) of said law.

§ 143-3. Scope.

- A. It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or ordinances, except those specifically or impliedly repealed by this chapter, or any private restrictions placed upon property by covenant, deed or other private agreement unless repugnant hereto.
- B. Where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or lot coverage or requires greater lot area, or longer yards, or other open spaces than are imposed or required by such rules, regulations, or permits or by such private restrictions, the provisions of this chapter shall control.

ARTICLE II
Word Usage and Definitions

§ 143-4. Word usage.

For the purposes of this chapter, certain phrases and words are herein defined as follows:

- A. Words used in the present tense include the future; words used in the singular number include the plural number and vice versa.
- B. The word "used" includes "arranged, designed, constructed, altered, converted, rented, leased or intended to be used."
- C. The word "lot" includes the words "plot," "premises" and "tract."
- D. The word "building" includes the word "structure" or "dwelling" or "residence."

- E. The word "shall" is mandatory and not discretionary. The term "may" indicates a permissive action. Any relief from a mandatory requirement must be granted through appropriate variance, exception or waiver procedure, as the case may be.
- F. Terms not defined. Whenever a term is not defined in this chapter, it is intended to have the meaning set forth in P.L. 1975, c. 291 (N.J.S.A. 40:55D-1 et seq.) or other applicable statutes. In the event of conflict between the definition in this chapter and that contained in said statute, the definition in said statute shall apply. Any word or term not defined herein or in the statute shall be used with a meaning of standard usage.
- G. Abbreviations. Certain statutory references used in this Ordinance are abbreviated with initials and have the following meanings: c = Chapter; N.J.S.A. = New Jersey Statutes Annotated; P.L. = Public Law; R.S. = Revised Statutes.

§ 143-5. Definitions.

As used in this chapter, terms below shall have the meanings indicated. The terms identified with an asterisk (*) have specific reference to Article XIV, Stormwater Management, but may also have application to other provisions of this ordinance.

ABSORPTION — The penetration of a substance into or through another, such as the dissolving of a soluble gas in a liquid.

ACCESSORY BUILDING, STRUCTURE OR USE — A building, structure or use naturally and normally incident and subordinate to the principal building, structure or use and located on the same lot. An accessory building attached to the principal structure in a substantial manner, common wall and/or roof shall be considered part of the principal building or structure.

ACRE-FOOT — The volume of water that will cover one acre to a depth of one foot.

ACT — The Municipal Land Use Law, Chapter 291 of the Laws of New Jersey 1975.

ACTUAL CONSTRUCTION — The placing of construction materials in permanent position and fastened in a permanent manner, according to architectural and engineering design.

ADMINISTRATIVE OFFICER — The Secretary of the Planning Board, in the case of application to such Board; the Secretary of the Board of Adjustment, in the case of application or appeals to such Board; and the Clerk of the governing body, in the case of appeals to such body, unless a different municipal official or officials are designated by this chapter.

ADULT BOOKSTORE — Any business or business operation which sells, distributes or otherwise conveys any obscene materials described in the definition of "obscene" herein.

[Added 7-21-2007 by Ord. No. 2007-24]

AGRICULTURAL DEVELOPMENT — Land uses normally associated with the production of food, fiber and livestock for sale. For purposes of this ordinance, such uses shall not include the development of land for the processing or sale of food and the manufacture of agriculturally related products.

ALLEY — A street, either private or Borough-owned, with a right-of-way not exceeding 30 feet in width and used primarily for vehicular service to properties fronting on local, secondary or major streets.

ALTERATIONS OR ADDITIONS, STRUCTURAL — A change or rearrangement in the structural parts, the means of egress, or an enlargement, whether by extending on a side or by increasing in height of a building or structure, or to change the use of a structure on land or to move a structure from one location or position to another.

ANNUAL FLOOD — The highest peak discharge which can be expected in any given year.

APARTMENT — A dwelling unit located on the floor of a building containing similar units or other uses, adjoining said similar units or uses above, below or to the side, which units may share in common facilities, such as entryways, hallways and utility systems.

APPLICANT — A person submitting an application for development or seeking other action by a land use agency in the Borough, pursuant to this Ordinance.

APPLICATION FOR DEVELOPMENT — The application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, residential cluster, conditional use, zoning variance, or any application made to the Board of Adjustment.

AQUIFER — An underground porous, water-bearing geological formation. The term is generally restricted to materials capable of yielding an appreciable supply of water.

BASE FLOOD — Stream discharge derived from groundwater sources. Sometimes considered to include flows from regulated lakes or reservoirs. Fluctuates much less than storm runoff.

BASEMENT — A portion of the building partly underground but having less than 1/2 its clear height below the average grade of the adjoining ground and having a floor-to-ceiling height of not less than seven feet. (See "cellar.")

BERM — A narrow shelf or flat area that breaks the continuity of a slope.

BMPS (BEST MANAGEMENT PRACTICES) — Management practices that, based upon currently available information, appear to have the greatest potential for controlling nonpoint source pollution and managing stormwater.

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

BLOCK — A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, waterways or any other barrier to the continuity to development.

BOROUGH — The Borough of Butler, Morris County, New Jersey.

BUFFER — An area of land within a lot which may be located within a setback area located along a property line intended to visibly separate or screen the use and activities or block noise, lights or other potential nuisances on the lot from adjoining property through the use of

natural vegetation, landscaping, berms, fences, walls, or any combination of same. (See Appendix to Article II, Typical Buffer Area Diagram).

BUILDING — Any structure or extension thereof or addition thereto having a roof supported by such things as columns, posts, piers or walls and intended for the shelter, business, housing or enclosing of persons, animals or property.

BUILDING COVERAGE — The square footage or other area measurement by which all buildings occupy a lot, as measured on a horizontal plane around the periphery of the roof drip line, and including the area under the roof of any structure supported by columns, but not having walls, as measured around the outside of the outermost extremities of the roof drip line above the columns.

BUILDING ENVELOPE — The area within a lot defined by the minimum front, rear and side yard yards. (See Appendix to Article II, Yard Definition Diagrams).

BUILDING HEIGHT — The vertical distance measured from the average ground elevation of the finished grade along any foundation wall of the building and at any uniform distances within 10 feet of the foundation to the highest point of the building. Average ground elevation is the average of the highest and lowest elevations of the finished grade along the foundation wall at any uniform distance within 10 feet of the foundation.

CELLAR — A portion of the building partly underground, having 1/2 or more than 1/2 of its clear height below the average grade of the adjoining ground or with a floor-to-ceiling height of less than seven feet. (See "basement.")

CHANGE IN USE — The use of the building or land which is in any manner different from the previous use by way of function, operation, extent, products sold or manufactured or the like, including a change from one permitted use to another kind of permitted use in the same zone.

CHANNEL — A watercourse with a definite bed and banks which confine and conduct continuously or intermittently flowing water.

CHANNEL STABILIZATION — Erosion preventing and stabilization of velocity distribution in a channel using riprap, drops, revetments, vegetation, and other measures.

CHILD CARE CENTER — Any facility, by whatever name known, which is maintained for the care, development and supervision of six or more children under six years of age who attend the facility for less than 24 hours a day. This terms shall include, but shall not be limited to, such programs as child care centers, day care centers, drop-in centers, day nursery schools, play schools, cooperative child centers, centers for children with special needs, infant-toddler programs, employment related centers, child care centers that have already received approval from the Department of Human Services Licensing Act, and kindergartens that are not an integral part of a private educational institutions or system offering elementary education in grades kindergarten through sixth. The terms shall not include any facility excluded from the definition of "Child Care Centers," in the Manual of Standards for Child Care Centers, State of New Jersey, Department of Human Services.

CIRCULATION — The provision for the movement of goods, people, water and sewage or power by means of streets, highways, railways waterways, airways, pipes, conduits or other means and including facilities for transportation, transit and communication.

COMMON PROPERTY — A parcel or parcels of land or an area of water, or a combination of land and water, together with the improvements thereon, designed and intended for the ownership, use and enjoyment shared by the residents and owners of the development. "Common property" may contain such complementary structures and improvements as are necessary and appropriate for the benefit of the residents and owners of the development.

COMMUNITY RESIDENCES FOR THE DEVELOPMENTALLY DISABLED — Any community residential facility licensed pursuant to N.J.S.A. 30:11B-1 et seq. providing food, shelter and personal guidance under such supervision as required, to more than six but not more than 15 developmentally disabled or mentally ill persons who require assistance temporarily or permanently in order to live in the community, and shall include but not be limited to; group homes, halfway houses, intermediate care facilities, supervised apartment living arrangements, and hostels.

COMMUNITY SHELTERS FOR VICTIMS OF DOMESTIC VIOLENCE — Any shelter approved for a purchase of service contract and certified pursuant to standards and procedures established by regulation of the Department of Human Services pursuant to N.J.S.A. 30-40-1.14 providing food, shelter, medical care, legal assistance, personal guidance and other services to more than six but not more than 15 persons who have been victims of domestic violence, including any children of such victims who temporarily require shelter and assistance in order to protect their physical or psychological welfare.

COMPACTION — The increase in soil bulk density. **[Added 11-20-2007 by Ord. No. 2007-29]**

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

CONDOMINIUM — A form of ownership of real property under a master deed providing for ownership by one or more owners of units of improvements, together with an undivided interest in common elements appurtenant to each such unit.

CORE — A pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation. **[Added 11-20-2007 by Ord. No. 2007-29]**

CORNER LOT — (See LOT, CORNER).

COUNTY DRAINAGE FACILITY — Any drainage facility for which the County of Morris is responsible in whole or in part.

COUNTY REVIEW AGENCY — An agency designated by the Morris County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be: A county planning agency; or A county water resource association created under N.J.S.A 58:143A-55.5, if the ordinance or

resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances. **[Added 11-20-2007 by Ord. No. 2007-29]**

CURVE NUMBER (CN) — Usually abbreviated CN, also called Hydrologic Soil Center Complex Number or Runoff Curve Number, is an index developed by the U.S. Department of Agriculture Soil Conservation Service (SCS) that represents the combined hydrologic effect of soil, land use, agricultural land treatment class, hydrologic condition, and antecedent soil moisture, and is used in the estimation of the volume and rate of runoff from a watershed.

DAM (NJDEPE) — Any artificial dike, levee or other barrier together with appurtenant works, which is constructed for the primary purpose of impounding water on a permanent or temporary basis and that raises the water level five feet or more above its usual mean low water height, prior to the construction of the dam, to the emergency spillway crest, or, in the absence of an emergency spillway, the top of the dam. See also "Low Dam".

DEAD-END STREET — A street used primarily for access to abutting properties whose entrance and exit is the same.

DELINEATED FLOODWAY — Any floodway designated by the State of New Jersey Department of Environmental Protection and Energy under the provisions of the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50.

DELINEATED STREAM — A stream that has a delineated floodway that has been officially adopted by the New Jersey Department of Environmental Protection and Energy and published in the New Jersey Register.

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

DEPARTMENT — The New Jersey Department of Environmental Protection. **[Added 11-20-2007 by Ord. No. 2007-29]**

DESIGNATED CENTER — A State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet. **[Added 11-20-2007 by Ord. No. 2007-29]**

DESIGN ENGINEER — A person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications. **[Added 11-20-2007 by Ord. No. 2007-29]**

DESIGN STORM — A selected rainfall pattern of specified amount, intensity, duration, and frequency that is used as a basis for design.

DETENTION — Managing stormwater runoff flows through temporary holding and controlled release.

DETENTION BASIN — A man-made or natural water collector facility designed to collect surface water runoff in order to attenuate its flow and to gradually release same into natural or man-made outlets. It can be an embankment and associated space for impoundment of water

or alternatively, the space for impoundment partially or entirely created by excavation rather than by embankment, in either case designed to temporarily retain stormwater runoff.

DETENTION FACILITY — A detention basin or alternative structure designed to temporarily retain stormwater runoff.

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

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the Borough of Butler.

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

DISCHARGE — Outflow; the flow of a stream, canal, or aquifer. One may also speak of the discharge of a canal or stream into a lake, river, or ocean. (Hydraulics) Rate of flow, specifically fluid flow; a volume of fluid passing a point per unit of time, commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, gallons per day, or millions of gallons per day.

DISTRICT or ZONE — Any part of the territory of the Borough of Butler to which certain uniform regulations and requirements apply.

DRAIN — A buried pipe or other conduit (closed drain). A ditch (open drain) for carrying off surplus surface water or groundwater.

DRAINAGE — The removal of surface water or groundwater from land by drains, grading or other means, including control of runoff to minimize erosion and sedimentation during and after construction or development and facilities for water supply preservation or prevention or alleviation of flooding.

DRAINAGE AREA — A geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving waterbody or to a particular point along a receiving waterbody. **[Added 11-20-2007 by Ord. No. 2007-29]**

DRAINAGE RIGHT-OF-WAY or DRAINAGE EASEMENT — The land or assignable rights and restrictions to the land required for the installation and/or maintenance of stormwater sewers, culverts, drainage ditches or swales, or that which required along a natural stream or watercourse for preserving the channel and providing for the flow therein in order to safeguard the public against flood damage, sedimentation or erosion, or for similar or related storm drainage purposes, including requiring assignable rights and restrictions in floodplain lands from upstream owners in order to facilitate the impoundment of water in the floodplain.

DWELLING or DWELLING UNIT — A room or series of connected rooms containing living, cooking, sleeping and sanitary facilities intended as the residence of a family.

DWELLING, MULTIFAMILY — A building containing more than two dwelling units, such as apartment and townhouse buildings.

DWELLING, ONE-FAMILY — A building containing one dwelling unit.

DWELLING, TWO-FAMILY — A building containing two dwelling units.

EMPOWERMENT NEIGHBORHOOD — A neighborhood designated by the Urban Coordinating Council in consultation and conjunction with the New Jersey Redevelopment Authority pursuant to N.J.S.A 55:19-69. **[Added 11-20-2007 by Ord. No. 2007-29]**

ENVIRONMENTAL IMPACT STATEMENT — A detailed analysis of the environmental consequences of a proposed development written in accordance with provisions of this ordinance.

ENVIRONMENTALLY CONSTRAINED AREA — The following areas where the physical alteration of the land is in some way restricted, either through regulation, easement, deed restriction or ownership such as: wetlands, floodplains, threatened and endangered species sites or designated habitats, and parks and preserves. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program. **[Added 11-20-2007 by Ord. No. 2007-29]**

ENVIRONMENTALLY SENSITIVE AREAS — An area or feature which is of significant environmental value, including but not limited to: stream corridors; natural heritage priority sites; habitat of endangered or threatened species; large areas of contiguous open space or upland forest; steep slopes; and well head protection and groundwater recharge areas, the Critical Water Resources Districts as depicted on the Borough Zoning Map, as regulated by Section 143.28.050 and all other applicable municipal, county, state and federal regulations. Habitats of endangered or threatened species are identified using the Department's Landscape Project as approved by the Department's Endangered and Nongame Species Program. **[Added 11-20-2007 by Ord. No. 2007-29]**

EROSION — The wearing away of the land surface or the detachment and movement of soil or rock fragments by water, wind, ice or gravity; usually greatly accelerated by land disturbing activities of man.

EXCAVATION — Removal or recovery by any means whatsoever of minerals, mineral substances or organic substances, other than vegetation, from the water, land surface or beneath the land surface, whether exposed or submerged. Normal agricultural activities shall not be considered to be excavation.

EXCEPTION — An exemption from or a modification of the literal requirements of Part 3 of this Chapter 143 pertaining to an improvement or a design standard.

EXTERIOR HYDRONIC HEATING SYSTEMS — Are Hydronic Heating Systems located exterior to a Principle Building . **[Added 8-18-2009 by Ord. No. 2009-10]**

FAMILY — A person or any number of persons, having a permanent and stable relationship, living together as a bona fide single nonprofit housekeeping unit with the intent of maintaining the prevailing domestic environment.

FAR — See FLOOR AREA RATIO.

FENCE — A vertical structure erected as a barrier, enclosure or screening and extending or suspended between posts or other supports. As used in this Chapter, the term "fence" shall include the term "wall."

FILL — Sand, gravel, earth or other materials of equal quality placed or deposited within the one-hundred-year floodplain or flood hazard area so as to form an embankment or raise the elevation of the land surface.

FINAL APPROVAL — The official action of the municipal agency taken on a preliminarily approved major subdivision or site plan after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guaranties properly posted for their completion, or approval conditioned upon the posting of such guaranties.

FINAL PLAT — The final map of all or a portion of the subdivision which is presented for final approval in accordance with these regulations and which, if approved, shall be filed with the proper county recording officer.

FIRST FLOOR AREA — The residential portion of a dwelling unit, excluding, basements, garages, porches, terraces, hallways, stairwells, elevator shafts, sanitary facilities, storage areas and breezeways, measured by using the outside dimensions of the residential portion of the building. For a split level, bi-level, or tri-level dwelling, the area shall be considered to be the sum of the areas of two adjoining levels, excluding basements and garages, provided that both levels are connected by permanent, built-in stairs in the interior of the building.

FLOOD or FLOODING — A general and temporary condition of partial or complete inundation of a normally dry area from:

- A. The overflow of inland or tidal waters and/or
- B. The rapid accumulation of runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) — The official map on which the Federal Emergency Management Agency, Federal Insurance Administration has delineated the floodway and one-hundred-year floodplain applicable to the municipality.

FLOOD FRINGE — That portion of the flood hazard area not designated as the floodway.

FLOOD HAZARD AREA — Means the floodway and flood fringe areas as determined by the Department of Environmental Protection and Energy under Section 3 of the Flood Hazard Area Control Act (P.L. 1979, c. 359).

FLOOD HAZARD AREA DESIGN FLOOD — The one-hundred-year storm in non-delineated areas and the one-hundred-year storm plus 25% in the delineated areas.

FLOOD INSURANCE RATE MAP (FIRM) — The official map on which the Federal Emergency Management Agency, Federal Insurance Administration has delineated both the special flood hazard areas and the risk premium zones applicable to the municipality.

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

FLOOD LEVEL — The elevation indicated on the flood map.

FLOODPLAIN — The relatively flat area adjoining the channel of a natural stream which has been or may be hereafter covered by flood water. Flood hazard areas of delineated streams and areas inundated by the one-hundred-year flood in non-delineated areas.

FLOODWAY — The channel of a natural stream or other watercourse and portions of the adjacent land areas which are reasonably required and must be reserved to carry and discharge the base flood without cumulatively increasing the water surface elevation more than 0.2 foot.

FLOOR AREA — The area measured by using the outside dimensions of the building, excluding the area of a garage, attic, open porch or patio. Only those floor areas which have a ceiling height of seven feet or more and those areas used for storage space in nonresidential uses shall be included in the "floor area." The "floor area" of a townhouse, apartment or other attached structure shall be measured from the center of interior walls and the outside of exterior walls.

FLOOR AREA RATIO — The ratio of gross floor area of all buildings on a lot to the lot area.

FREQUENCY OF STORM (DESIGN STORM FREQUENCY) — The anticipated period in years that will elapse, based on average probability of storms in the design region, before a storm of a given intensity and/or total volume will recur; thus a ten-year storm can be expected to occur on the average once every 10 years. Sewers designed to handle flows which occur under such storm conditions would be expected to be surcharged by any storm of greater intensity.

FRESHWATER WETLANDS — An area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation; provided, however, that the Department of Environmental Protection and Energy, in a designated wetland, shall use the three parameter approach (that is hydrology, soils and vegetation) enumerated in the April 1, 1987 interim-final draft "Wetland Identification and Delineation Manual" developed by the United States Environmental Protection Agency, and any subsequent amendments thereto.

GARAGE, PRIVATE — An accessory building or structure or portion of a main building or structure only for the parking of vehicles, including but not limited to boats, construction equipment, recreational vehicles, quads, motorcycles, etc., of the occupants of the principal use, building or structure on the lot. A private garage as defined must meet the design criteria of the principle use and may not be constructed of cloth, canvas, plastic vinyl or any similar type material. **[Amended 6-16-2015 by Ord. No. 2015-12]**

GARAGE, PUBLIC — A building or part thereof, other than a private garage, used for the storage, care or repair of motor vehicles customarily used for private transportation, local school buses and commercial vehicles.

GROUNDWATER TABLE — The free surface of the groundwater, that surface subject to atmospheric pressure under the ground, generally rising and falling with the season, the rate of withdrawal, the rate of restoration, and other conditions. It is seldom static.

HEALTH-CARE FACILITIES — Institutions containing beds for four or more patients where the sick or injured are given medical or surgical care limited to the diagnosis and treatment of human beings only. For purposes of this chapter, "health-care facilities" are limited to hospitals, rest homes, nursing homes and convalescent homes.

HEIGHT OF BUILDING — (See **BUILDING HEIGHT**).

HOME OCCUPATION — Commercial endeavors that are located on the same lot as a residential dwelling and are compatible with the property and neighborhood in which they are located.

HOMEOWNERS' ASSOCIATION — An incorporated, nonprofit organization operating in a cluster single-family residential development under recorded land agreements through which:

- A. Each lot owner is automatically a member.
- B. Each occupied dwelling unit is automatically subject to a charge for a proportionate share of the expenses for the organizations' activities and maintenance, including any maintenance costs levied against the association by the Borough.
- C. Each owner and tenant has the right to use the common property.

HOT TUB — A plumbing fixture which can be located both inside or outside a residential dwelling capable of accommodating several persons at the same time and having water circulating or aerating equipment and having an operational water surface area no greater than 64 square feet.

HOUSING, SENIOR CITIZEN — (See **SENIOR CITIZEN HOUSING**).

IMPERVIOUS SURFACE — A surface that has been covered with a layer of material so that it is highly resistant to infiltration by water. **[Added 11-20-2007 by Ord. No. 2007-29]**

INDUSTRIAL PARK — An area wherein one or more buildings are erected for industrial purposes in relation to one another as part of an integrated and comprehensively planned total unit, whether or not the buildings are erected simultaneously or over a period of time.

INFILTRATION — The process by which water seeps into the soil from precipitation.
[Added 11-20-2007 by Ord. No. 2007-29]

INFILTRATION BASIN — A detention facility designed to infiltrate retained water to the subsurface and which is not an injection well.

INSTITUTIONAL USE — A nonprofit or quasi-public use or institution such as a church, library, public, or private school, hospital or municipally owned or operated building, structure or land used for public purposes.

INVERT — The lowest point of the inside of a sewer or other conduit; as opposed to the "crown" which is the highest point of the inside of a sewer.

KENNEL — A commercial establishment in which dogs, or domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

LAND — Includes improvements and fixtures on, above or below the surface.

LOADING SPACE — An off-street space or berth on the same lot with a building or group of buildings for the temporary parking of a commercial vehicle while loading or unloading.

LOT — A designated parcel, tract or area of land established by a plat or otherwise as permitted by law, and to be used, developed or built upon as a unit, except that, for purposes of this chapter, contiguous undersized lots under one ownership shall be considered one lot, and except further that no portion of a street shall be included in calculating the lot boundaries or areas.

LOT AREA — The area contained within the lot lines of a lot, but shall not include any portion of a street right-of-way.

LOT, CORNER — A lot on the junction of an abutting two or more intersecting streets where the interior angle of intersection does not exceed 135°.

LOT COVERAGE — (See **BUILDING COVERAGE**).

LOT DEPTH — The shortest horizontal distance between the front lot line and a line drawn parallel to the front lot line through the midpoint of the rear lot line.

LOT FRONTAGE — The horizontal distance between the side lot lines measured along the street line.

LOT, INTERIOR — A lot other than a corner lot.

LOT LINE — Any line forming a portion of the exterior boundary of a lot and the same line as the street line for that portion of a lot abutting a street.

LOT WIDTH — The straight and horizontal distance between side lot lines at setback points on each side lot line measured an equal distance back from the street line. The minimum lot width shall be measured at the minimum required building setback line.

LOW DAM (NJDEPE) — A dam which will not raise the water level of a stream or river by more than five feet above its usual mean low water height.

LOW INCOME — Total gross household income equal to 50% or less of the median household income for households of the same size and using the median income date for household size prepared by the United States Department of Housing and Urban Development (HUD) or equally reliable source for the region which includes Butler.

MAINTENANCE GUARANTY — Any security, other than cash, which may be accepted for the maintenance of any improvements required by this chapter.

MAJOR DEVELOPMENT — That, in addition to the definition of development in the Municipal Land Use Law, N.J.S.A. 40:55D-4, the activity must satisfy 1 or 2 below:

- A. Any site plan or subdivision plan that will ultimately cover land with one or more acres of additional impervious surfaces;
- B. Any construction of one or more of the following uses:
 - (1) Feeding and holding areas that provide for more than 100 head of cattle or 15,000 hens, 500 swine, 4,000 turkeys, 10,000 ducks; this section shall also apply to all other equivalent numbers of animal units as determined by the SCS Agricultural Waste Management Field Manual for measuring BOD (biochemical oxygen demand) producing potential;
 - (2) Pipelines, storage or distribution systems for petroleum products or chemicals;
 - (3) Storage, distribution or treatment facilities (excluding individual on-site sewage disposal systems) for liquid waste;
 - (4) Solid waste storage, disposition, incineration or landfill;
 - (5) Quarries, mines or borrow pits;
 - (6) Storage, distribution or treatment facilities for radioactive waste.

MAJOR DEVELOPMENT – STORMWATER PURPOSES — Any "development" that provides for ultimately disturbing one or more acres of land or increasing impervious surface by one-quarter acre or more. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation. Projects undertaken by any government agency which otherwise meet the definition of "major development" but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. are also considered "major development." **[Added 11-20-2007 by Ord. No. 2007-29]**

MAJOR SITE PLAN — All site plans that do not fall within the definition of "minor site plan" or "exempt site plan" as determined by the definition herein and the Planning Board.

MAJOR SUBDIVISION — Any subdivision not classified as a minor subdivision.

MASTER PLAN — A composite of one or more written or graphic proposals for the development of the municipality as adopted pursuant to law.

MINIMUM LIVING FLOOR AREA — The number of square feet, as measured from the exterior of an apartment, including all walls, toilets, closets, etc.

MINOR SITE PLAN — A development plan of not more than one lot, conforming to the requirements of the Butler zoning regulations, having a maximum land area of 20,000 square feet, a maximum land coverage for principal building of 15,000 square feet, an off-street parking requirement of not more than 12 spaces, nor involving any variance, planned development, new street, or extension of any off-tract improvement which is to be prorated pursuant to Section 30 of the Municipal Land Use Act.

MINOR SUBDIVISION — Any subdivision containing not more than three lots fronting on an existing, accepted street or on a private street approved by the Planning Board or otherwise approved by the Mayor and Council for purposes of issuing construction permits, nor involving any new street or the extension of any municipal facilities or the extension of any off-tract improvement, the cost of which is to be prorated pursuant to Section 30 of N.J.S.A. 40:55D-42.

MODERATE INCOME — Total gross household income equal to more than 50% but less than 80% of the median household income for households of the same size for the region which includes Butler, using the median income data for household size prepared by HUD or equally reliable source.

MUNICIPAL AGENCY — The Municipal Planning Board or Board of Adjustment or governing body of the Borough when acting pursuant to this chapter.

MUNICIPALITY — Any city, township, town, borough or village. **[Added 11-20-2007 by Ord. No. 2007-29]**

NODE — An area designated by the State Planning Commission concentrating facilities and activities which are not organized in a compact form. **[Added 11-20-2007 by Ord. No. 2007-29]**

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

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

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

NONPOINT SOURCE POLLUTION — Pollution from any source other than from any discernible, confined and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

NUISANCE — An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion or disturbance of another's rights; including the actual or potential emanation of any physical characteristics, activity or use across a property line, which can be perceived by or affect a human being of ordinary sensibility.

NURSING HOME — A facility, licensed by the New Jersey Department of Health as a long-term care facility, in which full-time convalescent or chronic care is provided to individuals, who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

NUTRIENT — A chemical element or compound, such as nitrogen or phosphorus, which is essential to and promotes the development of organisms. **[Added 11-20-2007 by Ord. No. 2007-29]**

OBSCENE — That which to the average person applying contemporary community standards, when considered as a whole, has as its dominant theme or purpose an appeal to an inordinate interest in sex. Any magazine, picture, drawing, photograph or other publication and any mechanical or electronic gadget, implement or device designed to sexually stimulate shall be obscene within the meaning of this article, if it is established that: **[Added 7-21-2007 by Ord. No. 2007-24]**

- D. The dominant theme of the material taken as a whole appeals to inordinate sexual interest;
- E. The material is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters; and
- F. The material is utterly without redeeming social value or the work taken as a whole lacks serious artistic, literary, political or scientific value.

OFFICIAL COUNTY MAP — The map, with changes and additions thereto, adopted and established, from time to time, by resolution of the Board of Chosen Freeholders.

OFFICIAL MAP — A map adopted in accordance with N.J.S.A. 40:55D-32 et seq., or any prior act authorizing such adoption. Such map shall be deemed to be conclusive with respect to the location and width of the street and public drainage ways and the location and extent of flood control baseline and public areas.

OFFICIAL SOILS MAP — The individual map sheets that are part of the Morris County Soil Survey of the National Cooperative Soil Survey of the Soil Conservation Service U.S.D.A., published by the County Soil Conservation District.

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

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

ONE-HUNDRED-YEAR FLOODPLAIN — The area inundated by the one-hundred-year flood. A one-hundred-year flood is estimated to have a 1% chance in 100 of being equaled or exceeded in any one year.

ON-SITE — Located on the lot in question.

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

OPEN DRAIN — Natural watercourse or constructed open channel that conveys drainage water.

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

OUTFALL — The point, location, or structure where wastewater or drainage discharge from a sewer to a receiving body of water.

OUTLET — Point of water disposal from a stream, river, lake, tidewater, or artificial drain.

OWNER — An individual, firm, association, syndicate, co-partnership or corporation having sufficient proprietary interest to seek or authorize development of land under this ordinance.

PARKING AREA — An open area, other than a street or other public way, used for the parking of motor vehicles and available for public use, whether for a fee or as a service or privilege for clients, customers, suppliers or residents. A "parking area" shall include access drives and aisles.

PARKING SPACE — An accommodation for the off-street parking of a motor vehicle, having an area, exclusive of access drives and aisles, as specified in this chapter.

PATIO — A level surfaced area, whether freestanding or directly adjacent to a principal building, at or within six inches of the finished grade, and not covered by a permanent roof. Such areas shall be constructed of either gravel or decorative stone, brick, brick pavers, flagstone, concrete or similar material. Any area constructed of wood, or similar material, shall be considered a deck.

PERCOLATION TEST — A determination of the rate of percolation or seepage of water through natural soils expressed as time in minutes for a one inch fall of water in test hole.

PERFORMANCE GUARANTY — Any security, including cash, which may be accepted for the satisfactory completion of any improvements.

PERMEABILITY — The quality that enables the soil to transmit water on air, measured as the number of inches per hour that water moves through the soil. Terms describing permeability are very slow (less than 0.06 inch), slow (0.06 to 0.20 inch), moderately rapid (2.0 to 6.0 inches), rapid (6.0 to 20 inches), and very rapid (more than 20 inches).

PERMITTED USE — Any use of land or buildings as permitted by this chapter. PERSON

— Any natural individual, firm, trust, partnership, association or corporation. PLANNING

BOARD — The municipal planning board established pursuant to this chapter. PLAT — A map or maps of a subdivision or site plan.

POLLUTANT — Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, medical wastes, radioactive substance (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.), thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, industrial, municipal, agricultural, and construction waste or runoff, or other residue discharged directly or indirectly to the land, ground waters or surface waters of the State, or to a domestic treatment works. Pollutant includes both hazardous and nonhazardous pollutants. **[Added 11-20-2007 by Ord. No. 2007-29]**

PORCH — A roofed open area directly attached by a common wall to the principal building and with direct accessed to or from such building. For purposes of regulating setback, porches shall be considered as part of the principal building.

PRELIMINARY APPROVAL — The conferral of certain rights pursuant to N.J.S.A. 40:55D-46, 48 and 49 prior to final approval after specific elements of a development plan have been agreed upon by the municipal agency and the applicant.

PREMISES — One or more contiguous parcels of property in single ownership, including the buildings thereon. Parcels shall not be deemed to be contiguous if separated by a road, railroad, right-of-way, brook, stream or other natural division.

PRINCIPAL BUILDING OR STRUCTURE — A building or structure arranged, adopted or designed for the predominant or primary use for which a lot may be dedicated.

PRINCIPAL USE — The main purpose for which a lot or building is used.

PROFESSIONAL OFFICE — The office of a physician, surgeon, dentist, minister, architect, engineer, surveyor, attorney, optometrist, accountant, veterinarian, planner or similar professional person.

PUBLIC AREA —

- A. Public parks, playgrounds, trails, paths and other recreational areas.
- B. Other public open spaces.
- C. Scenic and historic sites.
- D. Sites for schools and other public buildings and structures.

PUBLIC DRAINAGE WAY — The land reserved or dedicated for the installation of stormwater sewers or drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water to safeguard the public against flood damage, sedimentation and erosion.

PUBLIC OPEN SPACE — An open space area conveyed or otherwise dedicated to a municipality, municipal agency, board of education, state or county agency or other public body for recreational or conservation uses.

PUBLIC PURPOSE USE — The use of land or buildings by the governing body of the Borough or any officially created authority or agency thereof.

RAINFALL INTENSITY — The rate at which rain is falling at any given instant, usually expressed in inches per hour.

RATIONAL METHOD — A means of computing storm drainage flow rates (Q) by use of the formula $Q=CIA$, where C is a coefficient describing the physical drainage area, I is the rainfall intensity and A is the area.

RECHARGE — Replenishment of groundwater reservoirs by infiltration and transmission from the outcrop of an aquifer or from permeable soil.

RECHARGE BASIN — A basin provided to increase infiltration for the purpose of replenishing groundwater supply.

REPAIR — The construction or renewal of any part of an existing building for the purpose of its maintenance.

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

RESTAURANT — Any establishment, however designated, at which food is sold for consumption on the premises, excluding a snack bar or refreshment stand at a public or community swimming pool, playground, golf course, playfield or park, operated solely by the agency or group operating the recreational facility and for the convenience of patrons of the facility.

RESTAURANT, DRIVE-IN — Any fast food restaurant which also provides drive-in facilities which allow customers to be served directly from the building without leaving their automobiles.

RESTAURANT, FAST-FOOD — A business or establishment principally engaged in the over-the-counter and/or drive-thru sale of food, soft drinks, ice cream and/or similar confections which are offered primarily from a limited, standardized menu of quickly prepared or pre-prepared foods and are so prepared and packaged in paper or other types of disposable wrappers or containers, and served at counters or tables, either inside or outside the confines of a building or motor vehicles, and intended for the immediate consumption either within the building or in motor vehicles while parked on the premises or elsewhere off-site.

RESUBDIVISION — The further division or relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded according to law, or the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or other instrument.

RIPRAP — Broken rock, cobbles, or boulders placed on earth surfaces, such as the face of a dam or the bank of a stream, for protection against the action of water (waves). Also applied to brush or pole mattresses, brush and stone, or other similar materials used for soil erosion control.

ROOF LEADER — A drain or pipe that conducts stormwater from the roof of a structure, downward and thence into a sewer for removal from the property, or onto the ground for runoff or seepage disposal.

RUNOFF (VOLUME) — That amount or portion of precipitation that flows from a drainage area on the land surface, in open channels or in stormwater conveyance systems, usually expressed in cubic feet, acre feet or gallons.

RUNOFF RATE — The volume rate of movement or quantity of stormwater flowing past a given point with respect to time, expressed in cubic feet per second or gallons per minute.

SCHOOL — Any nonprofit educational facility, including private schools, nursery schools, day-care facilities, elementary schools and high schools.

SEDIMENT — Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.

SEDIMENTATION — The process of deposition of suspended matter carried by water, air, gravity, or ice. Accelerated sedimentation rates can destroy water-dwelling organisms and adversely effect water quality.

SEEPAGE PIT/SEEPAGE TRENCH — Concrete, plastic or other material pits or structures or an area of excavated earth filled with loose stone or similar material and into which surface water is directed for infiltration into the ground.

SENIOR CITIZEN HOUSING — Housing as constructed and available to persons or couples at least 62 years of age and over.

SERVICE STATION — Lands and buildings providing for the sale of typical merchandise, including fuel, lubricants and automotive accessories. Maintenance and repairs for motor vehicles may be provided, but no body repairs or painting or the storage of inoperable or wrecked vehicles shall be permitted.

SERVICE STATION, LIMITED — Land and buildings providing for the sale of automotive fuel, lubricant and accessories. Maintenance, repairs and accessory installations for motor vehicles are specifically prohibited.

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

SHOP, RETAIL — A building or part thereof, in which or from which a service is rendered directly to the ultimate consumer.

SITE — The lot or lots upon which development is to occur or has occurred. **[Added 11-20-2007 by Ord. No. 2007-29]**

SIGHT TRIANGLE — A triangular area bounded by the intersecting center lines of two intersecting streets and a straight line which connects sight points, located on each of the intersecting street center lines at specified distances from the intersecting street center lines and intended for the purpose of providing sight distances for vehicular and pedestrian traffic.

SIGN — Any announcement, declaration, demonstration, billboard display, illustration or insignia used to promote or advertise the interests of any person, group of persons, company, corporation, service or product when the same is placed, erected, attached, painted or printed where it may be viewed from the outside of any structure on the premises were placed including flags and pennants.

SIGN, AREA OF — The product of the largest horizontal width and the largest vertical height of the lettering, illustration, display or background. This shall not be construed to include the supporting members of any sign which are used solely for such purpose. If the letter, illustration, display or background is attached directly to the face of a building, the

height or width of the sign shall be the height or width or the largest letter, illustration, display or background, whichever is the greater. For signs with two display faces, the maximum area requirement shall be permitted on each side.

SIGN, BILLBOARD — A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located. Billboard signs may either be freestanding or wall mounted, and shall not exceed 250 square feet.

SIGN, FREESTANDING — Any sign supported by uprights or braces placed upon or in the ground and not attached to any building.

SINGLE OWNERSHIP — Ownership by one person or by two or more persons, whether jointly as tenants by the entirety or as tenants in common, of a separate parcel of real property not adjacent to land in the same ownership.

SITE PLAN — A development plan of one or more lots on which is shown the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, floodplains, marshes and waterways; the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting and screening devices; and any other information that may be reasonably required in order to make an informed determination pursuant to this chapter.

SOIL — Any earth, sand, clay, loam, gravel, humus, rock or dirt, and include both surface or topsoil and subsoil.

SOIL PERMIT, MAJOR — A permit for the moving of soil either to or from a property, wherein the aggregate amount of soil exceeds 500 cubic yards.

SOIL PERMIT, MINOR — A permit for the moving of soil either to or from a property, wherein the aggregate amount of soil is less than 500 cubic yards.

SPA — See Hot Tub.

STATE DEVELOPMENT AND REDEVELOPMENT PLAN METROPOLITAN PLANNING AREA (PA1) — An area delineated on the State Plan Policy Map and adopted by the State Planning Commission that is intended to be the focus for much of the state's future redevelopment and revitalization efforts. **[Added 11-20-2007 by Ord. No. 2007-29]**

STATE PLAN POLICY MAP — The geographic application of the State Development and Redevelopment Plan's goals and statewide policies, and the official map of these goals and policies. **[Added 11-20-2007 by Ord. No. 2007-29]**

STORAGE SHED, PRIVATE — An accessory building or structure only for the storage of tools, implements, appliances and other items incidental to the care and upkeep of the dwelling unit or structure on the lot. Such sheds shall be firmly anchored to the ground to keep the building stationary and intact and shall be limited in size by the accessory building requirements of the individual districts.

STORE, RETAIL — A building or part thereof in which or from which merchandise is sold at retail directly to the ultimate consumer.

STORM FREQUENCY — The time interval between major storms of predetermined intensity and volume, e.g., a five-, ten-, or twenty-year storm. This storm is the highest intensity which can occur during the specified time interval.

STORM SEWER — A system of pipes or other conduits that carries intercepted stormwater and surface water, street wash and other wash waters or drainage, but excludes domestic sewage and industrial wastes. Also called a "storm drain".

STORMWATER — Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, or is captured by separate storm sewers or other sewage or drainage facilities, or conveyed by snow removal equipment. **[Added 11-20-2007 by Ord. No. 2007-29]**

STORMWATER RUNOFF — Surface runoff or flow on the surfaces of roofs, streets, grounds, etc., resulting from precipitation, which is not absorbed or retained by that surface, but collects and runs off.

STORY — That portion of a building included between the surface of any floor and the surface of the next floor above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it. For the purpose of this chapter, the interior of the roof shall not be considered a ceiling. A "half story" is the area under a pitched roof at the top of a building, the floor of which is at least four feet, but no more than six feet, below the plate.

STREAM ENCROACHMENT PERMIT — A permit issued by the NJDEPE or delegated agency under the provisions of N.J.S.A. 58:16A-50 et seq. and N.J.A.C. 7:13.

STREET — Any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing state, county or municipal roadway or a street or way shown upon a plat heretofore approved pursuant to law or approved by official action pursuant to the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq., as amended) or a street or way on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a Planning Board and the grant to such Board of the power to review plats, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas and other areas within the street lines.

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 forming the dividing line between the street and a lot.

STRUCTURE — Anything constructed, assembled or erected which requires location on the ground or attachment to something having such location on the ground, including buildings, fences, tanks, towers, signs, advertising devices, swimming pools and tennis courts.

STRUCTURE HEIGHT — Same as "building height."

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

SURCHARGE — The flow condition occurring in closed conduits when hydraulic grade line is above the crown of the sewer.

SWALE — An elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated, and is normally without flowing water. Swales conduct stormwater into primary drainage channels and provide some groundwater recharge.

SWIMMING POOL, PRIVATE RESIDENTIAL — Includes artificially constructed pools, whether located above or below the ground, having a depth of more than 24 inches and/or a water surface of 250 square feet or more, and/or requires water filtration, circulation and purification; designed and maintained for swimming and bathing purposes by an individual for use by members of his household and guests and which is located on a lot as an accessory use and shall include all buildings, structures, equipment and appurtenances thereto.

TIME OF CONCENTRATION — The time period necessary for surface runoff to reach the outlet of a sub-basin from the hydraulically most remote point in the tributary drainage area.

TOWNHOUSE — A one-family dwelling attached by a common wall between it and the adjacent unit or units extending from the basement to the roof together with individual front and rear entrances and yards designed as an integral part of each unit.

TRACT — An area of land composed of one or more lots adjacent to one another, having sufficient dimensions and area to make one parcel of land meeting the requirements of this chapter for the use(s) intended. The original land area may be divided by one existing public street and still be considered one "tract," provided that the street is not an arterial road and that a linear distance equal to more than 75% of the frontage of the side of the street having

the larger street frontage lies opposite an equivalent linear distance of street frontage on the other side of the street.

TRAVEL TIME — The sum of the time intervals for overland flow, sewer or gutter flow, and pipe and channel flow from the hydraulically most remote point in the drainage area to the discharge point of interest.

URBAN COORDINATING COUNCIL EMPOWERMENT NEIGHBORHOOD — Neighborhood given priority access to State resources through the New Jersey Redevelopment Authority. **[Added 11-20-2007 by Ord. No. 2007-29]**

URBAN ENTERPRISE ZONE — A zone designated by the New Jersey Enterprise Zone Authority pursuant to the New Jersey Urban Enterprise Zones Act, N.J.S.A. 52:27H-60 et seq. **[Added 11-20-2007 by Ord. No. 2007-29]**

URBAN REDEVELOPMENT AREA — Previously developed portions of areas: **[Added 11-20-2007 by Ord. No. 2007-29]**

- A. Delineated on the State Plan Policy Map (SPPM) as the Metropolitan Planning Area (PA1), Designated Centers, Cores or Nodes;
- B. Designated as CAFRA Centers, Cores or Nodes;
- C. Designated as Urban Enterprise Zones; and
- D. Designated as Urban Coordinating Council Empowerment Neighborhoods.

USE — The specific purpose for which land or building is designed, arranged, intended or for which it is or may be occupied or maintained.

VARIANCE — Permission to depart from the literal requirements of the zoning regulations.

VEHICLE, COMMERCIAL — Any vehicle used or designed to be used for commercial purposes on the highways, roadways or in construction, whether or not said vehicle is registered as, or bears commercial-type license plates.

VEHICLES, MAJOR REPAIR — Includes rebuilding of engines and/or transmissions, installing axles, body work and vehicle painting. Typically not completed in a single day.

VEHICLES, MINOR REPAIR — Includes battery replacement, small part changes, tire repair, brake servicing, oil change, lubrication, engine tune-ups and minor routine maintenance. Typically "same day" repair.

VEHICLE, RECREATIONAL — A vehicular type of portable structure which may be towed, hauled or driven and which is primarily designed as a temporary living accommodation for recreational camping and travel, including, but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes. For purposes of regulating boats, motorcycles, ATV'S, snow mobiles, and similar equipment, including the trailers used to transport the same shall also be included. Recreational vehicles shall not exceed a bumper-to-bumper length of 36 feet (including trailer) or a height (including trailer) of 10 feet measured to the top of the roof. **[Amended 7-16-2019 by Ord. No. 2019-12]**

WAIVER — An exemption from the submission of required documentation or information in connection with a development application or an exemption from a procedural requirement.

WALL — A vertical structure erected as a barrier, enclosure or screening or for the purpose of retaining earth and continuously attached to or supported by the ground.

WAREHOUSE — A building used for the temporary storage of goods, materials or merchandise for later or subsequent distribution of delivery elsewhere for purposes of processing or sale.

WATERCOURSE — Any natural swale, stream, brook or river which is the natural course of storm or running water through which water flows ordinarily and frequently, but not necessarily continuously. This definition includes channels which have been artificially realigned or improved. Also often referred to as "waterway".

WATER QUALITY — A term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose.

WATERS OF THE STATE — The ocean and its estuaries, all springs, streams, wetlands, and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction. **[Added 11-20-2007 by Ord. No. 2007-29]**

WATER TABLE — The upper surface of the free groundwater in a zone of saturation; locus of points in soil water at which hydraulic pressure is equal to atmospheric pressure.

WET BASIN — A detention basin designed to retain some water on a permanent basis. Also commonly referred to as "Retention Pond" or "Detention Pond".

WETLANDS or WETLAND — An area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. **[Added 11-20-2007 by Ord. No. 2007-29]**

WIND ENERGY SYSTEMS — Include wind electrical systems, wind turbines, windmills, wind generators, wind driven systems and their support structures. **[Added 8-18-2009 by Ord. No. 2009-10]**

WIRELESS TELECOMMUNICATIONS ANTENNA — An antenna that is intended for commercial transmission or reception of personal wireless telephone services communications, and including commercial mobile services communications (pagers and similar), unlicensed wireless services communications, and common carrier wireless exchange access services.

WIRELESS TELECOMMUNICATIONS EQUIPMENT COMPOUND — A fenced-in area which contains the wireless telecommunications equipment buildings, antennas, equipment and towers.

WIRELESS TELECOMMUNICATIONS MICRO-SITE — A site containing the wireless telecommunications equipment, antennas, and support structure(s). These sites are intended to provide wireless telecommunication coverage of either full or short range, and/or to provide gap coverage within areas not adequately serviced. These sites are characteristic of facilities mounted on existing nonresidential buildings, utility structures (excluding wireless telecommunication towers) or similar structures and on new towers less than 75 feet in total height.

WIRELESS TELECOMMUNICATIONS TOWER — A freestanding vertical structure designed to support one or more wireless telecommunication antennas, including monopoles, guyed towers, lattice towers and similar structures.

YARDS — (See Appendix to Article II, Yard Definition Diagrams).

- A. **FRONT YARD** — An open space extending across the full width of the lot and lying between the street line and the closest point of any building on the lot. The depth of the "front yard" shall be measured horizontally from a line drawn parallel to the center line of the street. The minimum required "front yard" shall be the same as the required setback.
- B. **REAR YARD** — An open space extending across the full width of the lot and lying between the rear lot line and the closest point of the principal building on the lot. The depth of the "rear yard" shall be measured horizontally and at right angles to either a straight rear lot line or the point of tangent of curved rear lot lines. The minimum required "rear yard" shall be the same as the required rear setback.
- G. **SIDE YARD** — An open space extending from the front yard to the rear yard and lying between each side lot line and the closest point of the principal building on the lot. The width of the required "side yard" shall be measured horizontally and at right angles to either a straight side line or the point of tangent of curved side lot lines.

§143A-5 Definitions: [Added 2-16-2021 by Ord. No. 2021-2]

CAFRA CENTERS, CORES OR NODES - those areas with boundaries incorporated by reference or revised by the Department in accordance with N.J.A.C. 7:7-13.16.

CAFRA PLANNING MAP - the map used by the Department to identify the location of Coastal Planning Areas, CAFRA centers, CAFRA cores, and CAFRA nodes. The CAFRA Planning Map is available on the Department's Geographic Information System (GIS).

COMMUNITY BASIN - an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond, established in accordance with N.J.A.C. 7:8-4.2(c)14, that is designed and constructed in accordance with the New Jersey Stormwater Best Management Practices Manual, or an alternate design, approved in accordance with N.J.A.C. 7:8-5.2(g), for an infiltration system, sand filter designed to infiltrate, standard constructed wetland, or wet pond and that complies with the requirements of this chapter.

CONTRIBUTORY DRAINAGE AREA - the area from which stormwater runoff drains to a stormwater management measure, not including the area of the stormwater management measure itself.

DISTURBANCE - the placement or reconstruction of impervious surface or motor vehicle surface, or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation. Milling and repaving is not considered disturbance for the purposes of this definition.

GREEN INFRASTRUCTURE - a stormwater management measure that manages stormwater close to its source by:

- A. Treating stormwater runoff through infiltration into subsoil;
- B. Treating stormwater runoff through filtration by vegetation or soil; or
- C. Storing stormwater runoff for reuse.

HUC 14 or HYDROLOGIC UNIT CODE 14 - an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by a 14-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

LEAD PLANNING AGENCY - one or more public entities having stormwater management planning authority designated by the regional stormwater management planning committee pursuant to N.J.A.C. 7:8-3.2, that serves as the primary representative of the committee.

MOTOR VEHICLE - land vehicles propelled other than by muscular power, such as automobiles, motorcycles, autocycles, and low speed vehicles. For the purposes of this definition, motor vehicle does not include farm equipment, snowmobiles, all-terrain vehicles, motorized wheelchairs, go-carts, gas buggies, golf carts, ski-slope grooming machines, or vehicles that run only on rails or tracks.

MOTOR VEHICLE SURFACE - any pervious or impervious surface that is intended to be used by "motor vehicles" and/or aircraft, and is directly exposed to precipitation including, but not limited to, driveways, parking areas, parking garages, roads, racetracks, and runways.

NEW JERSEY STORMWATER BEST MANAGEMENT PRACTICES (BMP) MANUAL or BMP MANUAL - the manual maintained by the Department providing, in part, design specifications, removal rates, calculation methods, and soil testing procedures approved by the Department as being capable of contributing to the achievement of the stormwater management standards specified in this chapter. The BMP Manual is periodically amended by the Department as necessary to provide design specifications on additional best management practices and new information on already included practices reflecting the best available current information regarding the particular practice and the Department's determination as to the ability of that best management practice to contribute to compliance with the standards contained in this chapter. Alternative stormwater management measures, removal rates, or calculation methods may be utilized, subject to any limitations specified in this chapter, provided the design engineer demonstrates to the municipality, in accordance with §143A-181F of this ordinance and N.J.A.C. 7:8-5.2(g), that the proposed measure and its design will contribute to achievement of the design and performance standards established by this chapter.

PERSON - any individual, corporation, company, partnership, firm, association, political subdivision of this State and any state, interstate or Federal agency.

REGULATED IMPERVIOUS SURFACE - any of the following, alone or in combination:

- A. A net increase of impervious surface;
- B. The total area of impervious surface collected by a new stormwater conveyance system (for the purpose of this definition, a “new stormwater conveyance system” is a stormwater conveyance system that is constructed where one did not exist immediately prior to its construction or an existing system for which a new discharge location is created);
- C. The total area of impervious surface proposed to be newly collected by an existing stormwater conveyance system; and/or
- D. The total area of impervious surface collected by an existing stormwater conveyance system where the capacity of that conveyance system is increased.

REGULATED MOTOR VEHICLE SURFACE – any of the following, alone or in combination:

- A. The total area of motor vehicle surface that is currently receiving water;
- B. A net increase in motor vehicle surface; and/or quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant, where the water quality treatment will be modified or removed.

STORMWATER MANAGEMENT BMP – an excavation or embankment and related areas designed to retain stormwater runoff. A stormwater management BMP may either be normally dry (that is, a detention basin or infiltration system), retain water in a permanent pool (a retention basin), or be planted mainly with wetland vegetation (most constructed stormwater wetlands).

STORMWATER MANAGEMENT MEASURE – any practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

STORMWATER MANAGEMENT PLANNING AGENCY – a public body authorized by legislation to prepare stormwater management plans.

STORMWATER MANAGEMENT PLANNING AREA – the geographic area for which a stormwater management planning agency is authorized to prepare stormwater management plans, or a specific portion of that area identified in a stormwater management plan prepared by that agency.

WATER CONTROL STRUCTURE – a structure within, or adjacent to, a water, which intentionally or coincidentally alters the hydraulic capacity, the flood elevation resulting from the two-, 10-, or 100-year storm, flood hazard area limit, and/or floodway limit of the water. Examples of a water control structure may include a bridge, culvert, dam, embankment, ford (if above grade), retaining wall, and weir.

MAJOR DEVELOPMENT – STORMWATER PURPOSES – an individual “development,” as well as multiple developments that individually or collectively result in:

- A. The disturbance of one or more acres of land since February 2, 2004;
- B. The creation of one-quarter acre or more of “regulated impervious surface” since February 2, 2004;
- C. The creation of one-quarter acre or more of “regulated motor vehicle surface” since March 2, 2021 or the effective date of this ordinance, whichever is earlier; or
- D. A combination of B and C above that totals an area of one-quarter acre or more. The same surface shall not be counted twice when determining if the combination area equals one-quarter acre or more.

Major development includes all developments that are part of a common plan of development or sale (for example, phased residential development) that collectively or individually meet any one or more of paragraphs A, B, C, or D above. Projects undertaken by any government agency that otherwise meet the definition of “major development” but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., are also considered “major development.”

Part 2
Planning Board and Board of Adjustment

ARTICLE III
Planning Board

§ 143-6. Establishment.

- A. There is hereby established in the Borough of Butler pursuant to N.J.S.A. 40:55D-1 et seq., as amended, a Planning Board of nine members consisting of the following classes:
- (1) Class I: The Mayor.
 - (2) Class II: One of the officials of the municipality other than a member of the governing body to be appointed by the Mayor; provided that the member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be deemed to be the Class II Planning Board member in the event that there is among the Class IV or alternate members of the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education.
 - (3) Class III: A member of the governing body to be appointed by it.

- (4) Class IV: Six citizens of the municipality to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, position or employment except that one such member may be a member of the Zoning Board of Adjustment or historic preservation commission, if any. A member of the Board of Education may be a Class IV member. The member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be a Class IV Planning Board member, unless there be among the Class IV or alternate members of the Planning Board, both a member of the Zoning Board of Adjustment or historic preservation commission and a member of the Board of Education, in which case the member common to the Planning Board and the Environmental Commission shall be deemed a Class II member of the Planning Board. Membership on a municipal board or commission whose function is advisory in nature, and the establishment of which is discretionary and not required by statute, shall not be considered the holding of office.
- B. There may also be not more than two alternate members appointed to the Planning Board in the same manner as Class IV members. Alternate members shall be designated by the Chairman of the Planning Board as "Alternate No. 1" and "Alternate No. 2". Alternate members may participate in discussion of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No 1 shall vote.

§ 143-7. Terms.

- A. The term of the member composing Class I shall correspond with his official tenure. The terms of the members composing Class II and Class II shall be for one year or terminate at the completion of their respective terms of office whichever occurs first, except for a Class II member who is also a member of the Environmental Commission. The term of a Class II or a Class IV member who is also a member of the Environmental Commission shall be for three years or terminate at the completion of his term of office as a member of the Environmental Commission, whichever comes first.
- B. 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.
- C. The terms of alternate members shall be for two years except that of the alternate members first appointed, one shall be appointed for a one-year term and one shall be appointed for a two-year term, said terms to run from January 1 of the year in which the appointment is made. Thereafter, all appointments shall be made for a term of two years.

§ 143-8. Vacancies.

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

§ 143-9. Organization of Board.

The Planning Board shall elect a chairman and vice chairman from the members of Class IV and select a secretary who may be either a member of the Planning Board or a municipal employee designated by it. The Board shall adopt by-laws setting forth the rules and regulations pertaining to its operating procedures and organization. Said by-laws shall be ratified annually at the organization meeting of the Board.

§ 143-10. Planning Board Attorney.

There is hereby created the office of Planning Board Attorney. The Planning Board may annually appoint, 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.

§ 143-11. Experts and staff.

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

§ 143-12. Powers and duties generally.

The Planning Board is authorized to adopt by-laws governing its procedural operation. It shall also have the following powers and duties:

- A. To prepare, adopt and from time to time amend a master plan for the physical development of the municipality including any areas outside its boundaries, which in the Board's judgment bear essential relation to the planning of the municipality, in accordance with the provisions of N.J.S.A. 40:55D-28. Said master plan shall be reexamined every six years in accordance with the provision of N.J.S.A. 40:55D-89. A reexamination shall be completed at least once every six years beginning in 1982.
- B. To administer the provisions of this chapter and the Municipal Land Use Law of 1975, N.J.S.A. 40:55D-1 et seq. in connection with subdivision and site plan review.
- C. To hear applications for conditional uses and in proper cases to approve conditional use permits in accordance with the provisions of the zoning regulations, pursuant to N.J.S.A. 40:55D-67.
- D. To participate in the preparation and review of programs or plans required of the Planning Board by State or Federal law or regulations.
- E. To assemble data on a continuing basis as part of a continuous planning process.
- F. To prepare a program of municipal capital improvement projects over a term of six years, and amendments thereto, and recommend same to the governing body, when so authorized by the governing body pursuant to N.J.S.A. 40:55D-29.

- G. To consider and make report to the governing body within 35 days after referral as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26(a) which report shall identify any provisions in the proposed development regulation, revision or amendment which are inconsistent with the master plan, and shall include recommendations concerning these inconsistencies, and any other matters the Board deems appropriate; and also pass upon other matters specifically referred to the Planning Board by the governing body pursuant to provisions of N.J.S.A. 40:55D-26(b).
- H. Whenever the proposed development requires approval of a subdivision, site plan, or conditional use, but not a variance pursuant to N.J.S.A. 40:55D-70(d), to grant to the same extent and subject to the same restrictions as the Board of Adjustment.
- (1) Variances pursuant to N.J.S.A. 40:55D-70(c).
 - (2) Direction pursuant to N.J.S.A. 40:55D-34 for issuance of a permit for a building or structure in the bed of a mapped street or public drainage way, flood control basin or public area reserved pursuant to N.J.S.A. 40:55D-32.
 - (3) Direction pursuant to N.J.S.A. 40:55D-36 for issuance of a permit for a building or structure not related to a street.
- I. To perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies or officers.
- J. To consider and make a report within 45 days of its receipt upon any petition for annexation submitted to the governing body of the municipality and referred to the Planning Board pursuant to the provisions of N.J.S.A. 40A:7-12.
- K. To review a petition for inclusion of a parcel in a municipality approved Farmland Preservation Program pursuant to N.J.S.A. 4:1C-21(c).

§ 143-13. Advisory Committee.

The Mayor may appoint one or more persons as a citizens advisory committee to assist or collaborate with the Planning Board in its duties, but such person or persons shall have no power to vote or take other action required of the Board. Such person or persons shall serve at the pleasure of the Mayor.

ARTICLE IV **Zoning Board of Adjustment**

§ 143-14. Findings.

The Zoning Board of Adjustment was created by ordinance pursuant to the terms of N.J.S.A. 40:55D-69. The aforementioned statute mandates the creation of a Zoning Board of Adjustment upon the adoption of a zoning ordinance unless the municipality is eligible for, and exercises, the option of creating a nine-member Planning Board to exercise all of the

powers and duties of the Board of Adjustments as provided by N.J.S.A. 40:55D-25c. The Borough meets the criteria established in N.J.S.A. 40:55D-25c and has determined that it is in the public's best interest to abolish the Zoning Board of Adjustment and allow the Planning Board to exercise its powers and duties.

§ 143-15. Abolishment of Zoning Board of Adjustment; discharge of members.

- A. The Zoning Board of Adjustment is hereby abolished and all of the powers and duties granted by law to the Board are hereby transferred to the Planning Board pursuant to the authority established in N.J.S.A. 40:55D-25c.
- B. All members, officers and employees of the Zoning Board of Adjustment as of the effective date of this ordinance shall be discharged from their positions, offices or employment.

§ 143-16. Reference to Board of Adjustment.

All references to the Board of Adjustment contained in this Chapter shall be deemed to refer to the Planning Board.

§ 143-17. Experts and staff.

The Zoning Board of Adjustment may also employ or contract for and fix the compensation of such experts and other staff and services as it may deem necessary. The Board shall not authorize expenditures which exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

§ 143-18. Rules and regulations.

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

§ 143-19. Powers of the Zoning Board of Adjustment.

- A. The powers of the Zoning Board of Adjustment shall be in accordance with N.J.S.A. 40:55D-69 et seq. and amendments and supplements thereto, and with the provisions of this chapter.
- B. It is further the intent of this chapter to confer upon the Zoning Board of Adjustment as full and complete powers as may lawfully be conferred upon such Board, including, not by way of limitation, the authority, in connection with any case action or proceeding before the Board, to interpret and construe the provisions of the Zoning Regulations, or any term, clause, sentence or word thereof, and the Zoning Map, in accordance with the general rules of construction, applicable to legislative enactments.

- C. The Board may, in appropriate cases and subject to appropriate conditions and safeguards, grant variances from the terms of the Zoning Regulations in accordance with the general or specific rules contained herein, and with the general rules hereby laid down that equity shall be done in cases where the strict construction of the provisions of the Zoning Regulations would work undue hardship. The powers and duties of the Board having been delegated to and imposed upon it by statute, the Board shall in all cases follow the provisions applicable to it in N.J.S.A. 40:55D-1 et seq., or subsequent statutes in such cases made and provided, and it shall from time to time furnish to any person requesting the same a copy of its rules and information as to how appeals or applications may properly be filed with the Board for its decision thereon.

§ 143-20. Appeals and applications.

- A. Appeals to the Board of Adjustment may be taken by any person aggrieved, or by an officer, department, board or bureau of the municipality or affected by any decision of the administrative officer. Each appeal shall be taken within the 20 days of the date of decision prescribed in N.J.S.A. 40:55D-72a by filing a notice of appeal with the officer from whom the appeal was taken, together with three copies of such notice with the Secretary of the Board of Adjustment. Such notice of appeal shall specify the grounds for the appeal. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
- B. Applications addressed to the original jurisdiction of the Board of Adjustment without prior application to an administrative officer, shall be filed with the Secretary of the Zoning Board of Adjustment. Three copies of the application shall be filed. At the time of filing the appeal or application, but in no event less than 10 days prior to the date set for hearings, the applicant shall also file all plot plans, maps, or other papers required by virtue of any provision of this chapter or any rule of the Board of Adjustment. The applicant shall obtain all necessary forms from the Secretary of the Zoning Board of Adjustment. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting date of the Board.
- C. An appeal stays all proceedings in furtherance of the action in respect of which the decision appealed from was made, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such a case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by the Superior Court of New Jersey on application or notice to the officer from whom the appeal is taken and on due cause shown.

§ 143-21. Power to reverse or modify decisions.

In exercising the above mentioned power, the Board of Adjustment may, in conformity with the provisions of N.J.S.A. 40:55D-1 et seq. or amendments thereto or subsequent statutes applying reverse or affirm wholly or partly or may modify the order, requirement, decision, or determination appealed from, and make such other requirement, decision or determination

appealed from, and make such other requirement, decision or determination as ought to be made, and to that end have all the powers of the administrative officer from whom the appeal was taken.

§ 143-22. Expiration of variance. [Amended 7-16-2019 by Ord. No. 2019-12]

Any variance from the terms of the Zoning Regulations hereafter granted by the Planning Board 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, unless such permitted use has actually been commenced, or unless an extension of time is granted by the Board, within 36 months from the date of entry of the judgment or determination of the Planning Board except as otherwise provided by law; except however, that the running of the period of limitation herein provided shall be extended from the date of filing an appeal from the decision of the Planning Board to a court of competent jurisdiction, until the termination of any manner of such appeal or proceeding, and provided further, that in the event another agency approval is required and the application is pending before the other agency at the time of approval, then the thirty-six-month period shall commence after receipt of that other approval.

§ 143-23. Powers granted by law.

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

- A. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement decision or refusal made by an administrative officer based on or made in the enforcement of the zoning chapter.
- B. Hear and decide requests for interpretation of the map or zoning chapter or for decisions upon other special questions upon which the Board is authorized to pass by provisions in the zoning regulations.
- C. (1) Where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, (b) or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to the zoning chapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property, a variance from the strict application or an appeal relating to such property, a variance from the strict application of such regulation so as to relieve such difficulties or hardship; (2) where in an application or appeal relating to a specific piece of property the purposed of this act would be advanced by a deviation from the zoning regulations requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from such regulations of the zoning chapter; provided, however, that no variance from those departures enumerated in N.J.S.A. 40:55D-70(d) shall be granted under this subsection; and provided further that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in

conjunction with which the Planning Board has power to review a request for a variance pursuant to N.J.S.A. 40:55D-60(a) of the Municipal Land Use Law.

- D. In particular cases and for special reasons, grant a variance to allow departure from regulations set forth in the zoning regulations to permit (1) a use or principal structure in a district restricted against such use or principal structure (2) an expansion of a nonconforming use, (3) deviation from a specification or standard pursuant to N.J.S.A. 40:55D-4 pertaining solely to a conditional use, (4) an increase in the permitted floor area ratio as defined in N.J.S.A. 40:55D-4 (5) an increase in the permitted density as defined in N.J.S.A. 40:55D-4, except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings, which lot or lots either an isolated undersized lot or lots resulting from a minor subdivision or (6) a height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the district for a principal structure. A variance under this subsection shall be granted only by affirmative vote of at least five members of the Board. If an application for development requests one or more variances but not a variance for a purpose enumerated in subsection D. of this section, the decision on the requested variance or variances shall be rendered under subsection C of this section.
- E. No variance or other relief may be granted under the provisions of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning chapter. In respect of any airport hazard areas delineated under the "Air Safety and Hazardous Zoning Act of 1983" N.J.S.A. 6:1-80 et seq., no variance or other relief may be granted under the terms of this section permitting the creation or establishment of a nonconforming use which would be prohibited under the standards promulgated pursuant to that act, except upon issuance of a permit by the Commissioner of Transportation. An application under this section may be referred to any appropriate person or agency other than the Planning Board for its report; provided that such reference shall not extend the period of time within which the Zoning Board of Adjustment shall act.

§ 143-24. Additional powers.

The Zoning Board of Adjustment shall in addition to the powers specified in § 143-22 of this chapter have power given by law to:

- A. Direct issuance of a permit pursuant to N.J.S.A. 40:55D-34 for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved on the official map;
- B. Direct issuance of a permit pursuant to N.J.S.A. 40:55D-36 for a building or structure not related to a street; and
- C. To grant, to the same extent and subject to the same restrictions and procedures as the Planning Board, subdivision or site plan approval pursuant to N.J.S.A. 40:55D-37 et seq. or conditional use approval pursuant to N.J.S.A. 40:55D-67 whenever the proposed development requires approval by the Board of Adjustment of a variance pursuant to subsection d of Section 57 of the Municipal Land Use Law (N.J.S.A. 40:55D-70). The developer may elect to submit a separate application requesting approval of the variance

and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals by the Board of Adjustment. No such subsequent approvals shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning regulations. The number of votes of Board members required to grant such subsequent approvals shall be as otherwise provided in this chapter for the approval in question, and the special vote pursuant to the aforesaid subsection d of Section 57 (N.J.S.A. 40:55D-70d) shall not be required.

- D. To grant a certificate certifying that a use or structure existed before the adoption of the zoning ordinance which rendered the use or structure nonconforming, pursuant to (N.J.S.A. 40:55D-68).

§ 143-25. Time for decision and certification of completeness.

- A. The Board of Adjustment shall render its decision not later than 120 days after the date:
- (1) An appeal is taken from the decision of an administrative officer; or
 - (2) Of certification of completeness of an application for development to the Board of Adjustment in accordance with the provisions of § 143-49.
- B. In the event that a developer elects to submit separate consecutive applications for a use variance and for approval of a subdivision, site plan or conditional use, the one-hundred-twenty-day provision shall apply to the variance application only; and the period for taking action on the subsequent applicant shall be as otherwise provided in this chapter.
- C. The failure of the Board to render a decision within the applicable time period (120 days for variance applications and specified time periods as provided otherwise for other subsequent applications), or within such further time as may be consented to by the applicant, shall constitute a decision favorable to the applicant and the applicant shall comply with the provisions of § 143-39.

§ 143-26. Annual review of decisions; annual report.

The Board of Adjustment shall, at least once a year, review its decisions on applications and appeals for variances and prepare and adopt by resolution a report on its findings on zoning regulation provisions which were the subject of variance request and its recommendations for zoning regulation amendment or revision, if any. The Board of Adjustment shall send copies of the report and resolution to the governing body and Planning Board.

ARTICLE V

Provisions Applicable to Both the Planning Board and Zoning Board of Adjustment**§ 143-27. 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 relating hereto.

§ 143-28. Meetings.

- A. Meetings of both the Planning Board and Zoning Board of Adjustment shall be scheduled no less than once a month and any meeting scheduled shall be held unless canceled for lack of applications for development to process.
- B. Special meetings may be provided for at the call of the chairman or on the request of any two board members, which 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 any meeting without a quorum being present.
- D. All actions shall be taken by a majority vote of the members present at the meeting except as otherwise required by any provision of N.J.S.A. 40:55D-1 et seq. (See Board Rules). Failure of a motion to receive the number of votes required to approve an application for development shall be deemed an action denying the application.
- E. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meetings Law, N.J.S.A. 10:4-6 et seq. An executive session for the purpose of discussing and studying any matters to come before either Board shall not be deemed a regular or special meeting in accordance with the provisions of N.J.S.A. 40:55D-9. Further, subcommittee meetings of less than a quorum of the Board shall not be required to be open to the public.

§ 143-29. Minutes.

Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the board and of the persons appearing by attorney, the action taken by the board, the findings, if any, made by it and reasons therefore. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the municipal Clerk. Any interested party shall have the right to compel 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 or by statute.

§ 143-30. Fees.

Fees or charges for submission of applications or for rendering of any service by the Planning Board or Zoning Board of Adjustment or any member of their administrative staffs for review of an application for development, for inspections or for taking of appeals are as set forth in Article VI or as established in other Borough ordinances establishing fees. Any fee paid in connection with an informal review of a concept plan for development for which the developer intends to prepare and submit an application for development shall be a credit toward fees for review of the application for development.

§ 143-31. Hearings.

- A. Rules. The Planning Board and Zoning Board of Adjustment may make rules governing the conduct of hearings before such bodies which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et seq. or of this ordinance.
- B. Oaths. The officer presiding at the hearing of 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" 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 to 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 proceeding by either stenographer, mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his expense.

§ 143-32. Notice requirements for hearing.

Whenever a hearing is required on an application for development pursuant to N.J.S.A. 40:55D-1 et seq., or as to any matter coming before the Zoning Board of Adjustment, the applicant shall give notice thereof, as indicated below; however, applications for minor subdivision approval, exemption or minor site plan approval, and final subdivision and site plan approval, shall not be required to provide notice unless the other relief which is requested would require public notice.

- A. Public notice shall be given by publication in the official newspaper of the municipality at least 10 days prior to the date of the hearing.

B.

- (1) Notice shall be given to the owners of all real property located in this State as shown on the current tax duplicate or duplicates within 200 feet in all directions of the property which is the subject of such hearing, and whether located within or without the municipality. Such notice shall be given by:
 - (a) Serving a copy thereof on the owner, as shown on the said current tax duplicates, or his agent in charge of the property, or
 - (b) Mailing a copy thereof, by certified mail to the property owner at his address, as shown on the current tax duplicate or duplicates.
- (2) The above requirements shall be deemed satisfied where condominiums or horizontal property regimes are within 200 feet of applicant's property, by making service in the following manner:
 - (a) If the applicant's property abuts a condominium and the owner of any unit is within 200 feet of the applicant's property and said unit has a unit above or below it, by giving notice to the condominium association.
 - (b) If the applicant's property abuts a horizontal property regime and an apartment of the co-owner is within 200 feet of the applicant's property and such apartment has an apartment above or below it, by giving notice to the horizontal property regime.
 - (c) If the applicant is the owner of a condominium unit or co-owner of an apartment, notice shall be given to all other units owners or apartment co-owners within 200 feet of the unit or apartment owned or co-owned by the applicant. A return receipt is not required. Notice to a partnership owner may be made upon any partner. Notice to a corporate owner may be made by service upon its president, vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Where a condominium association, horizontal property regime, community trust or homeowner's association, own grass, landscaped areas, driveways, parking lots, recreational facilities, etc., which are common elements or areas, that are within 200 feet of the property which is the subject of a hearing, notice may be made in the same manner as to a corporation, without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

C. Notice of all hearings on applications for development involving property located within 200 feet of an adjoining municipality shall be given by personal service or certified mail to the Clerk of such municipality, which notice shall be in addition to the notice required to be given pursuant to § 143-31B to the owners of lands in such adjoining municipality which are located within 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 Map or on the County master plan, adjoining the County land or situated within 200 feet of the 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 150 acres or 500 dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the municipal Clerk pursuant to N.J.S.A. 40:55D-10(b).
- G. In the case of a public utility, cable television company or local utility which possesses a right-of-way or easement within the Borough of Butler and which has registered with the Borough pursuant to N.J.S.A. 40:55D-12.1, notice shall be given by (1) 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 (2) 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 10 days prior to the date fixed for hearing and the applicant shall file an affidavit of proof of service with the board holding the hearing on the application for development.
- I. Any notice made by certified mail as hereinabove required shall be deemed to be complete upon mailing in accordance with the provisions of C. 40:55D-14.
- J. Form of notice. All notices required to be given pursuant to the terms of this ordinance shall state the date, time and place of the hearing, the nature of the matters to be considered and identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the municipal tax assessor's office and the location and times at which any maps and documents for which approval is sought are available as required by law.
- K. Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least 10 days before the date of the hearing during normal business hours in the office of the municipal Clerk.
- L. Notice pursuant to paragraphs C, D, E and F of this section shall not be required unless public notice pursuant to paragraph A and paragraph B of this section is required. Notice under paragraphs A and B is not required for (1) conventional site plan review, (2) minor subdivision approval or (3) final approval pursuant to N.J.S.A. 40:55D-50.

§ 143-32.1. Registration by public utilities, cable television companies or local utilities.

- A. Every public utility, cable television company and local utility having a right-of-way or easement within the Borough of Butler desirous of receiving notice of development applications pursuant to N.J.S.A. 40:55D-12 may register with the Borough Clerk. The registration shall remain in effect until revoked by the registrant or its successor in interest.

- B. Any public utility, cable television company or local utility seeking to register with the Borough of Butler pursuant to this Section shall be required to pay a \$10 registration fee.

§ 143-33. List of property owners furnished.

Pursuant to the provisions of N.J.S.A. 40:55D-12c the tax assessor of the municipality shall, within seven days after receipt of a request therefore, and upon receipt of a fee not to exceed \$0.25 per name or \$10, whichever is greater, make and certify a list from the current tax duplicate of names and addresses of owners to whom the applicant is required to give notice pursuant to § 143-31B of this chapter.

§ 143-34. Decisions.

- A. Each decision on any application for development shall be set forth in writing as a resolution of the Board which shall include findings of fact and legal conclusions based thereon.
- B. A copy of the decision shall be mailed by the board within 10 days of the date of decision to the applicant, or if represented, then to his attorney, without separate charge. A copy of the decision shall also be mailed to all persons who have requested it and who have paid the fee prescribed by the board for such service. A copy of the decision shall also be filed in the office of the municipal Clerk, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the municipality.
- C. The municipal agency shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. The municipal agency shall provide the findings and conclusions through:
- (1) A resolution adopted at a meeting held within the time period provided in the act for action by the municipal agency on the application for development; or
 - (2) A memorializing resolution adopted at a meeting held no later than 45 days after the date of the meeting at which the municipal agency voted to grant or deny approval. Only the members of the municipal agency who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting at which the resolution is presented for adoption shall be sufficient to adopt the resolution. An action pursuant to N.J.S.A. 40:55D-9 (resulting from the failure of a motion to approve an application) shall be memorialized by resolution as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution. The vote on any such resolution shall be deemed to be a memorialization of the action of the municipal agency and not to be an action of the municipal agency; however, the date of the adoption of the resolution shall constitute the date of the decision for purposes of the mailings, filings, and publications required under § 143-34B and under § 143-35. If the municipal agency fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary

manner for an order compelling the municipal agency to reduce its findings and conclusions to writing within a stated time and the cost of the application, including attorneys fees, shall be assessed against the municipality.

- D. Failure of a motion to approve an application for development to receive the number of votes required for approval shall be deemed an action denying the application. An action resulting from the failure of a motion to approve an application shall be memorialized by resolution as provided above notwithstanding the time at which the action occurs within the applicable time period for rendering a decision on the application.

§ 143-35. Publication of decision.

A brief notice of every final decision shall be published in the official newspaper of the municipality. Such publication shall be arranged by the secretary of the Planning Board or Zoning Board of Adjustment, as the case may be, without separate charge to the applicant. Said notice shall be sent to the official newspaper for publication within 10 days of the date of any such decision.

§ 143-36. Payment of taxes.

Pursuant to the provisions of N.J.S.A. 40:55D-39e. and N.J.S.A. 40:55D-65h. 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 or other monies 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 the 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.

§ 143-37. Disclosure of ownership by corporation or partnership.

- A. A corporation or partnership applying to a municipal agency for permission to subdivide a parcel of land into six or more lots, or applying for variance to construct a multiple dwelling 25 or more family units, or for approval of a site to be used for commercial purposes, shall list the names and addresses of all stockholders or individual partners owning at least 10% of its stock of any class, or at least 10% of the interest in the partnership, as the case may be.
- B. If a corporation or partnership owns 10% or more of a stock or a corporation, or 10% or greater interest in a partnership, subject to disclosure pursuant to paragraph a of this subsection, that corporation or partnership shall list the names and addresses of its stockholders holding 10% or more of its stock, or of 10% or greater interest in the partnership, as the case may be, and this requirement shall be followed by every corporate stockholder or partner in a partnership until the names and addresses of the non-corporate stockholders and individual partners exceeding the 10% ownership criterion have been listed.

§ 143-38. Conditional approval.

- A. Conditions precedent. Whenever any application for development is approved subject to specified conditions, intended to be fulfilled before the approval becomes effective, said conditional approval shall lapse and become null and void unless all specified conditions are fulfilled within 90 days of the date of conditional approval.
- B. The fulfillment of all conditions precedent shall be reported in writing to the municipal agency, which may cause such reports to be verified in an appropriate manner. Only upon fulfillment of all conditions shall any subdivision map or site plan be assigned or any required building permit, occupancy permit or zoning permit be issued.
- C. Conditions subsequent. Whenever any application for development is approved subject to conditions, which by their terms are incapable of being fulfilled, or are not required to be fulfilled prior to the final approval of the application, the performance of which are not guaranteed by bonds or securities of any type, failure to fulfill any such condition within six month from the date of the final approval of the application for development shall be grounds for the issuance of a stop work order by the enforcing official and the withholding of any zoning permit, certificate of occupancy or any other approval until such condition or conditions are fulfilled.
- D. Nothing herein contained shall be construed as preventing the municipal agency from specifying a longer period of time within which any specific condition must be fulfilled, or from granting, upon an ex parte application an extension of time for fulfilling a condition for good cause shown.
- E. The fulfillment of all conditions shall be reported in writing to the municipal agency which may cause such reports to be verified in an appropriate manner. Only upon fulfillment of all conditions shall any subdivision map or site plan be signed or any required building permit, occupancy permit, zoning permit or other required approval be issued.

§ 143-39. Default approvals; applicant's obligations.

An applicant shall comply with the provisions of this section whenever the applicant wishes to claim approval of his application for development by reason of the failure of a municipal agency to grant or deny approval with the time periods specified in the municipal land use law and this chapter.

- A. Applicant shall provide notice of the default approval to the municipal agency and to all those entitled to notice by personal service or certified mail of the hearing on the application for development; but for purposes of determining who is entitled to notice, the hearing on the application for development shall be deemed to have required public notice pursuant to subsection (a) of N.J.S.A. 40:55D-12b. The applicant shall arrange publication of the notice of the default in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality.
- B. The applicant shall file an affidavit of proof of service and publication with the secretary of the Planning Board or Zoning Board of Adjustment as the case may be.

§ 143-40. Pending applications.

All applications for development filed prior to the effective date of this chapter may be continued by any appeals arising out of decisions made on any such application shall be governed by the provisions of § 143-20.

§ 143-41. Continuance in office.

Members of the Planning Board and Zoning Board of Adjustment on the effective date of this ordinance shall continue in office until the completion of their terms as provided by law immediately prior to the effective date of this ordinance. Any new appointments or reappointments to said boards shall be governed by the provisions of this ordinance.

**Part 3
Development Review**

**ARTICLE VI
Development Review Fees**

§ 143-42. Application fees.

The developer shall, at the time of filing a submission, pay the following nonrefundable fee to the Clerk of the municipal agency by certified check or bank money order. Proposals involving more than one use shall pay a fee equaling the sum of the fees for the components elements of the development proposal. Proposals requiring a combination of approvals, such as subdivision, site plan and/or a variance, shall pay a fee equal to the sum of the fee for each element.

A. Subdivisions.

- (1) Concept plan: \$50.
- (2) Minor subdivision: \$100 + \$25 per lot.
- (3) Major subdivision, preliminary plat: \$200 + \$50 per lot.
- (4) Amendment to approved preliminary plat: 50% of original fee.
- (5) Major subdivision, final plat: \$100 + \$25 per lot.

B. Site plans.

- (1) Concept plan: \$50.
- (2) Minor site plan: \$200.
- (3) Preliminary site plan.

- (a) Multifamily residential: \$200 + \$50 per dwelling unit.
 - (b) Conventional: \$200 + \$10 per 100 square feet of building floor area + \$10 per 1,000 square feet of lot area.
- (4) Amendment to approved preliminary site plan: 50% of original fee.
- (5) Final.
- (a) Multifamily residential: \$100 + \$25 per dwelling unit.
 - (b) Conventional: \$100 + \$5 per 100 square feet of building floor area + \$5 per 1,000 square feet of lot area.
- (6) Freestanding and wall-mounted signs not included in site plan applications: \$100.
- C. Variances (per application).
- (1) To hear and decide appeals from the decision of the Zoning Officer: \$200.
 - (2) Interpretation of zoning map: \$100.
 - (3) Residential yard and bulk variances: \$125.
 - (4) Variances related to signs: \$100.
 - (5) All other use, yard and bulk variances:
 - (a) One- and two-family dwellings: \$250.
 - (b) Multifamily Residential: \$100 per dwelling unit with a minimum total fee of \$250.
 - (c) All other uses: \$5 per 100 square feet of building floor area + \$10 per 1,000 square feet of lot area with a minimum total fee of \$350.
- D. Conditional uses: \$250.
- E. Calculation of floor area and lot area. When an application involves only a portion of a building and/or lot, the calculation of all fees in this section which are based on the amount of floor area or lot area shall be based only on the portion of the floor area or lot area directly involved in the application.

§ 143-43. Technical review escrow deposits.

- A. In addition to the base application fees set forth in § 143-42, the applicant shall also pay to the Borough of Butler a review fee escrow deposit in the amount set forth below.

- (1) Subdivisions.
 - (a) Concept plan:
 - [1] Minor subdivision: \$250.
 - [2] Major subdivision: \$250 + \$50 per lot.
 - (b) Minor subdivision: \$500.
 - (c) Major subdivision, preliminary plat: \$1,000 + \$100 per lot.
 - (d) Major subdivision, final plat: \$500 + \$50 per lot.
 - (2) Site plans.
 - (a) Concept plan: \$5,000 or the following (whichever amount is less):
 - [1] Multifamily residential: \$250 + \$25 per dwelling unit.
 - [2] Conventional: \$250 + \$25 per 100 square feet of lot area.
 - (b) Preliminary plans: \$5,000 or the following (whichever amount is less):
 - [1] Multifamily residential: \$500 + \$50 per dwelling unit.
 - [2] Conventional: \$500 + \$50 per 100 square feet of building floor area + \$50 per 1,000 square feet of lot area.
 - (c) Final plans: \$5,000 or the following (whichever amount is less):
 - [1] Multifamily residential: \$250 + \$25 per dwelling unit.
 - [2] Conventional: \$250 + \$25 per 100 square feet of building floor area + \$25 per 1,000 square feet of lot area.
 - (3) Variances:
 - (a) Variances pursuant to N.J.S.A. 40:55D-70c: \$500.
 - (b) Variances pursuant to N.J.S.A. 40:55D-70d: \$1,000.
 - (4) Other applications: as estimated by professional person.
- B. Deposits received from any developer pursuant to this section shall be deposited in a banking institution or savings and loan association in New Jersey insured by an agency of the Federal Government, or any other fund or depository approved for such deposits by the State of New Jersey:
- (1) Deposits under \$5,000 received from any developer pursuant to this section will be placed in one account and monitored by separate ledger.
 - (2) Deposits in excess of \$5,000 received from any developer pursuant to this section shall be placed in an account bearing interest at the minimum rate currently paid by the institution or depository on time or savings deposits. The deposits shall be

deposited to a review fee trust account identified with the name of the applicant and the filing number of the application for development. The Borough shall notify the applicant, in writing, of the name and address of the institution or depository in which the deposit is made and the amount of the deposit. The Borough shall not refund an amount of interest paid on a deposit which does not exceed \$100 for the year. If the amount of interest exceed \$100 that entire amount shall belong to the applicant and shall be refunded to him by the Borough annually or at the time the deposit is repaid, as the case may be; except that the Borough shall retain for administrative expenses a sum equivalent to no more than $33 \frac{1}{3}$ of that entire amount, which shall be in lieu of all other administrative and custodial expenses.

- C. The review fee escrow deposit shall be applied to defray the actual and reasonable expenses incurred by the Borough for professional services in connection with the processing of the application for development.
- D. An applicant shall be responsible to reimburse the Borough for:
 - (1) All expenses of professional personnel incurred and paid by it necessary to process an application for development before a municipal agency, such as, but not by way of limitation:
 - (a) Charges for reviews by professional personnel of applications and accompanying documents.
 - (b) Issuance of reports by professional personnel to the municipal agency setting forth recommendations resulting from the review of any documents submitted by applicant.
 - (c) Charges for any telephone conference or meeting requested or initiated by applicant, his attorney or any of his experts.
 - (d) Review of additional documents submitted by applicant and issuance of reports relating thereto.
 - (e) Review or preparation of easements, developers, agreements, deeds or the like.
 - (f) Preparation for and attendance at special meetings.
 - (2) The cost of expert advice or testimony obtained by the municipal agency for the purpose of corroborating testimony of applicant's experts; provided that the municipal agency gives prior notice to applicant of its intention to obtain such additional expert advice or testimony and affords applicant an opportunity to be heard as to the necessity for such additional advise or testimony and definition of the limitations on the nature and extent thereof.
- E. No applicant shall be responsible to reimburse the Borough for any of the following:
 - (1) Attendance by the Borough's professional personnel at any regularly scheduled meeting of the municipal agency; provided, however, that the Borough shall be entitled to be reimbursed for attendance of its professional personnel at special

meetings of a municipal agency which were requested to be called by the applicant for the applicant's convenience.

- (2) The preparation of a resolution or memorializing resolution setting forth the findings and conclusions of the municipal agency with respect to an application.
- F. The term "professional personnel" or "professional services" as used herein shall include the services of a duly licensed engineer, surveyor, planner, attorney, realtor, appraiser or other expert who would provide professional services to insure an application meets performance standards set forth in the Ordinance and other experts whose testimony is in an area testified to by applicant's expert.
- G. The professional or expert retained by the Borough in connection with its review and action on such application shall submit itemized vouchers to the Administrative Officer for all fees and expenses incurred in reviewing the application and submitting reports or rendering professional services in connection with the application. The professional or expert shall forward a copy of the voucher to the applicant or the applicant's attorney at the address listed in the application,
- H. The fees and rates charged for expenses incurred in the application review shall not exceed the fees and rates ordinarily charged the Borough for similar services to the Borough. If the review of the application necessitates the use of experts whose fees and rates exceed those usually charged, such expert may be retained with the consent of the applicant and the applicant shall be charged for the actual fees.
- I. The applicant shall present any objections to the Administrative Officer within 10 days of the receipt of the voucher, and in the event that reasonableness and necessity of the voucher.
- J. All vouchers shall follow the same procedures as for all other vouchers or invoices submitted to the Administrative Office. The Administrative Officer shall determine whether or not the vouchers submitted represent the actual and reasonable charges, fees, and expenses which have been incurred in connection with the application, taking into consideration any objection made by the applicant. The applicant may appeal the Administrative Officer's determination by notifying the Municipal Agency's Secretary in writing as to the challenge/question. The applicant will be afforded an opportunity to be heard at a public meeting.
- K. Any unused portion of the Review Fee Trust Account shall be refunded to the applicant as soon as practicable after Borough action with respect to the application is completed.
- L. In the event that the cost of such professional review and processing services shall at any time exceed the amount remaining in the Review Fee Trust Account, the applicant shall deposit a supplemental review fee escrow deposit in such amount as is determined by the Administrative Officer to be sufficient to cover any deficit in such account.
- M. No subdivision plat shall be signed, nor shall any building permits, certificates of occupancy or other permits or approvals be issued with respect to any approved application for development until all fees as set forth herein are paid and the developer signs an Escrow Fee Agreement.

§ 143-44. Soil permits.

The following fees shall accompany an application for a soil permit:

- A. Minor soil permit: \$10 plus inspection fees required during the course of operation not to exceed the sum of \$35.
- B. Major soil permit: \$0.01 per cubic yard of soil to be moved with a minimum fee of \$10 plus inspection fee as required, not to exceed the sum of \$35 per inspection and not more than two inspections per month.

ARTICLE VII
Application Procedures

§ 143-45. Applicability.

Prior to the subdivision or resubdivision of land and prior to the issuance of a construction permit or certificate of occupancy for any development, an application shall be submitted to and approved by the Planning Board in accordance with the requirements of this chapter, except that subdivision or individual lot applications for detached one-or two-family dwelling unit buildings shall be exempt from site plan review and approval. Except for detached one-or two-family dwelling unit buildings and buildings and uses accessory thereto, site plan approval shall be required for any new building, any addition to any existing building, any off-street parking area or alteration of such a parking area, any change in use of a building or part thereof, any change or modification to the exterior design or appearance of a building and any excavation, removal of soil, clearing of a site or placing of any fill. Whenever the Board of Adjustment has jurisdiction over an application, it shall act in the same manner and in the same capacity as the Planning Board as hereinafter provided.

§ 143-46. Waiver.

The Planning Board may, upon receipt of a letter of intent from an applicant, waive the requirement of site plan review and approval if it determines that the proposed development meets the requirements of this chapter and would not be subject to any improvements as may be the subject of this chapter. Said letter of intent shall describe the proposed use or change in use and operations to be conducted in sufficient detail to allow the Planning Board to make an informed decision relative to waiver of site plan submission. The standard to be applied by the Planning Board in making its decision shall be whether the proposed use or change of use changes, alters or enlarges the previous use or will change, alter, enlarge or affect drainage, traffic, parking, sidewalks, paving, landscaping, fencing, sanitary disposal or other similar consideration under the site plan review requirements.

§ 143-47. Informal review of concept plan.

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

§ 143-48. Filing.

An application for development shall be filed with the Secretary of the Planning Board and shall be accompanied by required fees as provided in Article VI and shall be included or be accompanied by all data and information listed in the Checklist for Completeness of Application as provided in § 143-49. Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least 10 days before the date of the hearing during normal business hours in the office of the Administrative Officer. The applicant may produce other documents, records, or testimony at the hearing to substantiate or clarify or supplement the previously filed maps and documents. Immediately after filing, the application shall be submitted by the Secretary of the Board to the Subdivision and Site Plan Committee for preliminary review and recommendation to the full Planning Board.

§ 143-49. Completeness of application.

- A. An application for development shall be complete for purposes of commencing the applicable time period for action by the Planning Board when so certified by the Board or its authorized committee or designee. In the event that the agency, committee or designee does not certify the application to be complete within 45 days of the date of its submission, the application shall be deemed complete upon the expiration of the 45 days period for purposes of commencing the applicable time period unless a. the application lacks information indicated on the appropriate checklist for determining completeness of application and b. the municipal agency or its authorized committee or designee has notified the applicant, in writing, of the deficiencies in the application within 45 days of submission of the application. The applicant may request that one or more of the submission requirements be waived, in which event the agency or its authorized committee shall grant or deny the request within 45 days. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that he is entitled to approval of the application. The municipal agency may subsequently require correction of any information found to be in error and submission of additional information not specified in the ordinance or any revisions in the accompanying documents, as are reasonably necessary to make an informed decision as to whether the requirements necessary for approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompany documents so required by the municipal agency.
- B. For the purposes of administering this section, the following checklists for determining completeness of applications is hereby adopted and made part of this Ordinance (See Appendix):
- (1) Checklist No. 1. Minor Subdivision, Preliminary Major Subdivision, Final Major Subdivision, Minor Site Plan, Preliminary Major Site Plan, Final Major Site Plan.
 - (2) Checklist No. 2. Variance; Appeal.

§ 143-50. Combination and separation of applications.

- A. Simultaneous review. The Planning Board shall have the power to review and approve or deny conditional uses or site plans simultaneously with a review for subdivision approval without the developer being required to make further application or the Board being required to hold further hearings.
- B. Separate application for variances or special permits.
 - (1) A developer may elect to submit a separate application requesting approval of a variance or certain permits and a subsequent application for any required approval of a subdivision, site plan or conditional use in the following instances:
 - (a) When seeking a variance.
 - (b) When seeking a permit for building or structure in the bed of a mapped street, public drainage way, flood control basin or public area reserved on the Master Plan or Official Map, or shown on a plat which has been filed prior to the adoption of the Official Map.
 - (c) When seeking a permit for building or structure not related to a street.
 - (2) The separate approval of the variance shall be conditioned upon grant of all required subsequent approvals by the Boards granting the variance approval.

ARTICLE VIII
Review Procedures

§ 143-51. General.

- A. Hearing date; notification. Upon receipt of a complete application for preliminary subdivision or site plan approval, the Board shall schedule a hearing date and notify the applicant who shall give notice of such hearing as provided in § 143-32.
- B. Distribution of copies. The Municipal Agency shall distribute copies of the application to such Municipal, County, State and Federal officials and agencies as are required by law and/or necessary to assist the municipal agency in making determinations.
- C. Conditional approvals.
 - (1) In the event that a developer submits an application for development proposing a development that is barred or prevented, directly or indirectly, by a legal action instituted by any State agency, political subdivision or other party to protect the public health and welfare or by a directive or order issued by any State agency, political subdivision or court of competent jurisdiction to protect the public health and welfare, the municipal agency shall process such application for development, and, if such application for development complies with municipal development regulations, the municipal agency shall approve such application conditioned on removal of such legal barrier to development.

- (2) In the event that development proposed by an application for development requires an approval by a governmental agency other than the municipal agency, the municipal agency shall, in appropriate instances, condition its approval upon the subsequent approval of such governmental agency; provided that the municipality shall make a decision on any applications for development within the time period provided herein or within an extension of such period as has been agreed to by the applicant unless the municipal agency is prevented or relieved from so acting by the operation of law.

§ 143-52. Time period for decision.

- A. The Planning Board shall grant or deny the application within the times of submission of a complete application prescribed below, or within such further time as may be consented to by the applicant.

Type of Application	Period of Time for Action by Municipal Agency (days)
Minor subdivision or resubdivision	45
Preliminary plat — 10 lots or less	45
Preliminary plat — more than 10 lots	95
Final plat	45
Minor site plan	45
Preliminary site plan — 10 acres of land or less	45
Preliminary site plan — more than 10 acres of land	95
Final plat	45
Final site plan	45
Variance	120
Conditional use	95
Appeal of decision of administrative officer	120
Permit for structure in bed of public street, public drainage way, flood control basin, or public area reserved on master plan or official map	120
Permit for structure not related to a street	120

- B. In the event that there is an application for simultaneous review of a site plan, subdivision, conditional use, variance, etc., the longest time period for action shall apply, whether site plan, subdivision conditional use or variance.

- C. Failure of the Planning Board to act within the period prescribed shall constitute approval and a certificate of the Borough Clerk as to the failure of the municipal agency to act shall be issued on the request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats. The applicant shall be notified of the municipal agency's action within one week of its action.

§ 143-53. Amended applications.

In the case of preliminary site plans and preliminary major subdivisions, if the Planning Board requires any substantial amendment in the layout of improvements proposed by the developer that have been the subject of a hearing an amended application shall be submitted and proceeded upon, as in the case of the original application for development.

§ 143-54. Exceptions from site plan or subdivision requirements.

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

§ 143-55. Submission of approved final plans.

Following approval of an application for final site plan or final subdivision approval, the developer shall supply sufficient copies of the approved final plat or final plan so that the Administrative Officer can distribute one copy of each of the following: Borough Clerk, Borough Engineer, Board of Assessors of Taxes, Planning Board or Zoning Board of Adjustment, and any other agency or person directed by the municipal agency.

§ 143-56. Minor subdivision and minor site plan procedure.

- A. Filing. A minor subdivision or a minor site plan application shall be filed in accordance with § 143-48 and shall contain all data and information required in Checklist No. 1.
- B. Reclassification to major subdivision or major site plan. If it is determined that the application is a major subdivision or site plan, the applicant will be so notified. No further Planning Board action on the minor application shall be required and the developer shall follow the procedures contained herein for preliminary and final approval.
- C. Revision. Should the Planning Board determine that the proposed development may create, either directly or indirectly, an adverse effect on either the remainder of the property being developed or nearby property, the municipal agency may require the developer to revise the plan or plat. Where the remaining portion of the original tract is

of sufficient size to be developed or subdivided further, the developer may be required to submit a plat of the entire remaining portion of the tract to indicate a feasible plan whereby the design of the proposed development, together with subsequent subdivisions or development, will not create, impose, aggravate or lead to any such adverse effect.

- D. Decision, conditions. The Planning Board shall either approve, approve the conditions or disapprove all minor development proposals. Minor subdivision or minor site plan approval shall be deemed to be final approval, provided that the Planning Board may condition such approval on terms ensuring the provision of improvements pursuant to Article IX. A notation to such effect, including the date of the Planning Board's action, shall be made on all copies of the plat or plan and shall be signed by the Chairman and Secretary of the Board, except that plats or plan shall not be signed until all conditions are incorporated on the plat. All conditions on minor developments shall be complied with within 160 days of the meeting at which conditional approval was granted; otherwise the conditional approval shall lapse.
- E. Filing of approved subdivision plats. Except as provided in C 40:55D-47f., approval of a minor subdivision shall expire 190 days from the date on which the resolution of municipal approval is adopted unless within such period a plat in conformity with such approval and the provisions of the "Map Filing Law," P.L. 1960, c. 141 (C.46:23-9.9 et seq.), or a deed clearly describing the approved minor subdivision is filed by the developer with the County Recording Officer, the municipal engineer and the municipal tax assessor. Any such plat or deed accepted for such filing shall have been signed by the Chairman and Secretary of the Planning Board.
- F. Effect of approval. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision or minor site plan approval was granted, shall not be changed for a period of two years after the date of approval. The Planning Board shall grant an extension of this period for a period determined by the board but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the approvals. A developer shall apply for this extension before: (1) what would otherwise be the expiration date, or (2) the 91st day after the date on which the developer receives the last of the legally required approvals from the other governmental entities, whichever occurs later.
- G. Reapprovals. In the event an applicant fails to comply with the recording requirements set forth at N.J.S.A. 40:55D-47, he shall be required to reactivate his application and seek a reapproval of the application. This reapproval shall be as if it is in the first instance and shall be specifically set forth as an approval on the deed recorded in the office of the County Clerk.

§ 143-57. Preliminary major subdivision and preliminary major site plan procedure.

- A. Filing. A preliminary major subdivision or preliminary major site plan application shall be filed in accordance with § 143-48, and shall contain all data and information required in Checklist No. 1.
- B. Hearing. If the application is found to be complete, a hearing shall be scheduled.
- C. Decision. Following the public hearing, the Planning Board shall approve, approve the conditions or deny the application.
- D. Engineer's certification. The Planning Board shall not grant preliminary approval unless and until the Borough Engineer has certified in writing that in his judgment plans for all improvements, including stormwater control, are designed in accordance with sound engineering practices and that the interests of the Borough and adjoining properties are fully protected.
- E. Effect of approval. Preliminary approval shall confer upon the applicant the following rights for a three-year period from the date on which the resolution of preliminary approval is adopted:
 - (1) That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to use requirements; layout and design standards or streets, curbs and sidewalks; lot size; yard dimensions and off-tract improvements and any requirements peculiar to site plan approval, except that nothing herein shall be construed to prevent the municipality from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety.
 - (2) That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary plat.
 - (3) That the applicant may apply for and the Planning Board may grant extensions on such preliminary approval for additional period of at least one year but not to exceed a total extension of two years, provided that, if the design standards have been revised by ordinance, such revised standards shall govern.

§ 143-58. Installation of improvements; performance guarantee.

- A. Prior to the granting of final subdivision approval, the developer shall have installed the improvements required or shall have furnished performance guarantees as hereinafter provided for the ultimate installation of said required improvements, all in accordance with § 143-60.
- B. Prior to the granting of final site plan approval, the developer shall have installed or shall have furnished performance guarantees for the ultimate installation of any public on-tract improvements described and provided in § 143-60 as may be required in connection with site development. Also prior to the granting of final site plan approval, the applicant shall have installed any on-site improvements specified in § 143-61.

- C. Off-tract improvements. Also, prior to final subdivision or site plan approval, the applicant shall have paid his pro rata share of the cost of any off-tract improvements necessitated by his development as determined in accordance with the requirements of Article X.

§ 143-59. Final major subdivision and final major site plan procedure.

- A. Filing. A final major subdivision or major site plan application shall be filed in accordance with § 143-48 and shall contain all data and information required in Checklist No. 1.
- B. Decision. The Planning Board shall grant final approval if the detailed drawings, specifications and estimates of the application for final approval conform to the standards for final approval, the conditions of preliminary approval and, in the case of a major subdivision, the standards prescribed by the "Map Filing Law," P.L. 1960, c. 141 (C.46:23-9.9 et seq.)
- C. Engineer's statement. The Planning Board shall not grant approval unless it is in receipt of a letter from the Borough Engineer stating the following:
- (1) He is in receipt of a map showing all utilities and other improvements, both in the development and off-tract improvements, in exact location and elevation.
 - (2) He has examined the drainage, erosion, stormwater control and excavation plans and found that the interests of the Borough and of nearby properties are fully protected and identifying those portions of any improvements already installed.
 - (3) The subdivider has either installed all improvements in accordance with the requirements of this chapter and the preliminary plat approval with a maintenance guarantee accompanying the final plat; or posted a performance guaranty in accordance with this chapter and the preliminary plat approval for all partially completed improvements or improvements not yet initiated.
- D. Filing of approved subdivision plats. Final approval of a major subdivision shall expire 95 days from the date of signing of the plat unless within such period the plat shall have been duly filed by the developer with the County Recording Officer. The Planning Board may, for good cause shown, extend the period for recording for an additional period not to exceed 190 days from the date of signing of the plat. In order for a subdivision plat to be accepted for filing by the County Recording Officer, such plat shall first have been approved by the municipal agency as indicated on the instrument by the signature of the Chairman and Secretary of the Planning Board or a certificate has been issued as to the failure of the Board to act within the required time. The signatures of the Chairman and Secretary shall not be affixed until the developer has posted the required guaranties. If the County Recording Officer records any plat without such approval, such recording shall be deemed null and void, and, upon request of the Borough, the plat shall be expunged from the official record.
- E. Effect of final approval. The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer as part of preliminary

approval, whether conditionally or otherwise, shall not be changed for a period of two years after the date on which the resolution of final approval is adopted; provided that in the case of major subdivision the right conferred by this section shall expire if the plat has not been fully recorded within the time period provided in subsection C. above. If the developer has followed the standards prescribed for final approval, and, in the case of subdivision, has duly recorded the plat as required in subsection C. above, the Planning Board may extend such period of protection for extension of one year but not to exceed three extensions. The granting of final approval terminates the time period of preliminary approval for the section granted final approval.

- F. Selling before final approval. If, before final subdivision approval has been granted, any person transfers or sells or agrees to transfer or sell, except pursuant to an agreement expressly conditioned on final subdivision approval, as owner or agent, any land which forms a part of a subdivision for which municipal approval is required by ordinance, such person shall be subject to a penalty not to exceed \$1,000, and each lot disposition so made may be deemed a separate violation.
- (1) In addition to the foregoing, the municipality may institute and maintain a civil action:
 - (a) For injunctive relief; and
 - (b) To set aside and invalidate any conveyance made to such a contract of sale if a certificate of compliance has not been issued in accordance with § 143-59G below.
 - (2) In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land, from which the subdivision was made that remains in the possession of the developer or his assigns or successors, to secure the return of any deposits made or purchase price paid, and also, a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within two years after the date of the recording of the instrument of transfer, sale of conveyance of said land or within six years, if unrecorded.
- G. Certificates showing approval.
- (1) Application. The prospective purchaser, prospective mortgagee, or any other person interested in any land which forms part of a subdivision, or which formed part of such a subdivision as of August 1, 1978, may apply in writing to the Administrative Officer of the Municipality, for the issuance of a certificate certifying whether or not such subdivision has been approved by the Planning Board or Board of Adjustment. Such application shall contain a diagram showing the location and dimension of the land to be covered by the certificate and the name of the owner thereof.
 - (2) The Administrative officer shall make and issue such certificate with 15 days after the receipt of such written application and the fees therefore. Said office shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fee charged, in a binder as a permanent record in his office.

- (3) Each such certificate shall be designated a "certificate as to approval of subdivision of land," and shall certify:
- (a) Whether there exists in said municipality a duly established Planning Board or Board of Adjustment and whether there is an ordinance controlling subdivision of land adopted under the authority of the Municipal Land Use Law (N.J.S.A. 40:55D-1, et seq.).
 - (b) Whether the subdivision, as it relates to the land shown in said application, has been approved by the Planning Board or the Board of Adjustment, and, if so, the date of such approval and any extensions and terms thereof, showing that subdivision of which the lands are a part is a validly existing subdivision.
 - (c) Whether such subdivision, if the same has not been approved, is statutorily exempt from the requirement of approval as provided in this act.
- (4) The Administrative Officer shall be entitled to demand and receive for such certificate issued by him a reasonable fee not in excess of those provided in R.S. 54:5-14 and 54:5-15. The fees so collected by such official shall be paid by him to the municipality.
- (a) Right of owner of land covered by certificate.
 - [1] Any person who shall acquire for a valuable consideration an interest in the lands covered by any such certificate of approval of a subdivision in reliance upon the information therein contained shall hold such interest free of any right, remedy or action which could be prosecuted or maintained by the municipality pursuant to § 143-59F.
 - [2] Any such application addressed to the Clerk of the municipality shall be deemed to be addressed to the proper designated officer and the municipality shall be bound thereby to the same extent as though the same was addressed to the designated official.

ARTICLE IX

On-Tract and On-Site Improvements

§ 143-60. Installations for subdivisions.

Prior to the granting of final approval, the subdivider shall have installed the improvements listed below, except that the approving authority may accept performance guarantees as set forth in Article XI to assure the installation of said improvements. All improvements shall be subject to approval and inspection by the Borough Engineer, who shall be notified by the developer at least seven days prior to the start of construction of any improvements. No underground installation shall be covered until inspected and approved. All improvements shall be constructed in accordance with Article XII or other applicable Borough standards.

- A. Streets.
- B. Curbs.
- C. Sidewalks.
- D. Monuments.
- E. Water main, fire hydrants, culverts, storm sewers including other necessary drainage structures and installations and sanitary sewers.
- F. Street signs.
- G. Streetlights.
- H. Street trees.
- I. Gas, electric, telephone and cable television lines, as necessary.
- J. Soil erosion and sediment control devices.
- K. Culverts, storm sewers and storm drainage collection and detention and/or retention basins. The storm drainage collection system and the detention and/or retention basin system installed shall include storm sewers located within the beds of streets, culverts and inlets and storm sewers running through designated easement areas and drainage pipes attached thereto, as well as dry wells and swales, regrading, excavation, detention, retention and/or recharge basins which are required by this Chapter to meet the objectives thereof, all in accordance with Residential Site Improvement Standards at N.J.A.C. 5:21. Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21 shall conform to the requirements of Article XXIII. The Borough Engineer may require of the Developer additional, reasonable, drainage improvements in order to correct a drainage problem which develops during the course of construction of single family homes in a subdivision. All such drainage problems shall be rectified to the satisfaction of the Borough prior to the final release of any Performance Guarantee posted as a Condition of Final Subdivision Approval. **[Added 11-20-2007 by Ord. No. 2007-29]**

§ 143-61. Installation for site plans.

Prior to the granting of final approval, the applicant shall have installed or furnished performance guarantees as set forth in Article XI for the ultimate installation of any required public on-tract improvements as the same are described and under the same conditions established in § 143-60. In addition, the Planning Board may require the installation of on-site improvements, as described below prior to the granting of final approval which it finds essential before the issuance of a building permit. All such improvements shall be subject to approval and inspection of the Borough Engineer as provided in § 143-67. All improvements shall be constructed in accordance with Article XIII or other applicable Borough standards.

- A. Off-street parking and loading areas and access thereto.
- B. Curbing.

- C. Landscaping and screening.
- D. Exterior lighting.
- E. Sidewalks and other means of pedestrian access.
- F. On-site utilities, including drainage, water, sanitary sewer, electric and natural gas.
- G. Solid waste storage and recycling facilities.
- H. Other items of construction including, but not limited to, retaining walls, guard rail, fencing and traffic control devices, necessary in the interest of public safety and convenience or for the purpose of protecting adjoining property.
- I. Drainage. All parking and loading areas shall be graded and equipped with storm drainage collection and detention facilities as required in Article XXIII. **[Added 11-20-2007 by Ord. No. 2007-29]**
- J. Stormwater management. Stormwater Management systems and the maintenance thereof shall be in conformance with the requirements of Article XXIII. **[Added 11-20-2007 by Ord. No. 2007-29]**

ARTICLE X
Off-Tract Improvements

§ 143-62. Approval prerequisites.

Prior to the grant of final approval of any major development or the grant of approval of any minor development proposal or proposal prior to the issuance of any building permits for any land use, including any residence or other use of property on an unimproved street, the developer shall pay his pro rata share of the cost of providing any reasonable and necessary street improvements and water, sewerage and drainage facilities, and easements therefore, located outside the property limits of the development but necessitated or required by construction or improvements within the development. All payments shall be in the manner provided herein, it being the intent of this Article that the developer bear that portion of the cost which bears a rational nexus to the needs created by the development and benefits conferred upon such development.

§ 143-63. Determination of nature of improvement.

- A. Consistent with the provisions of this Article, the governing body with the assistance of the Planning Board and other appropriate Borough departments, shall, prior to the imposition of any conditions on an applicant for a development, determine whether the off-site improvement is to be constructed by the Borough as a general improvement or as a local improvement or whether such development is to be constructed by the developer with a formula providing for partial reimbursement if the improvement specially benefits properties other than the development.
- B. Once the foregoing determination has been made, the Planning Board shall estimated, with the aid of the Borough Engineer and such other persons having pertinent

information or expertise, the cost of the improvement and the amount by which all properties to be serviced thereby, including the development property, will be specially benefited therefrom.

- C. Following the aforesaid determinations by the Planning Board, the developer may be required to provide, as a condition for approval, a performance guarantee to insure payment to the Borough of one of the following amounts:
- (1) If the improvement is to be constructed by the Borough as a general improvement, an amount equal to the difference between the estimated cost of the improvement and the estimated total amount by which all properties to be serviced thereby, including the developer's property, will be specially benefited by the improvement.
 - (2) If the improvement is to be constructed by the Borough as a local improvement, then, in addition to the amount referred to in Subsection C(1) above, the estimated amount by which the development property will be specially benefited by the improvement.
 - (3) If the improvement is to be constructed by the applicant, an amount equal to the estimated cost of the improvement.
- D. The amounts of money required pursuant to this Article shall be estimated sums, and such amounts shall be redetermined by the Borough following the completion of the improvements to insure that the developer shall pay only his appropriate share of the cost thereof.
- E. Should a developer pay under protest the amount which has been determined as his pro rata share, legal action shall be instituted within one year of such payment in order to preserve the right to a judicial determination as to the fairness and reasonableness of such amount.

§ 143-64. Assessment of properties.

- A. The Borough shall assess all properties, other than the property of the applicant, benefiting from installation of any off-site improvements, based upon the actual cost thereof. However, principal amounts received by the Borough from such assessments, together with interest from property owners who have elected to pay for said assessments over a period of years, shall, in the case where the developer is the installer of the off-site improvements, be credited to the real estate account of the developer's property. In the case where there has been an apportionment of cost against the Borough for the required off-site improvements, then the Borough shall pay its portion of the cost to the developer no more than three months after the completed installations have been approved by the Borough Engineer.
- B. In the event of any default in payment of an assessment levied by the Borough pursuant to Subsection A above, then the Borough shall exercise its remedies elsewhere provided, and if thereafter the balance of principal and interest due upon the subject assessment has not been fully satisfied by the payment to the Borough and credit hereof given to the real

estate account of the developer's property, then the Borough shall forthwith pay said balance to the developer or his then successor in interest.

§ 143-65. Developer's share of cost for improvements not installed by developer.

In the event that the developer shall not be required to install off-site improvements by virtue of the provisions of this Article, then there shall be paid to the Borough Treasurer the amount of the developer's share of the finally determined cost of the off-site improvement. All moneys received by the Borough in accordance with the provisions of this Article shall be deposited in an interest bearing account, and such funds shall be used only for the improvements for which they are deposited or improvements serving the same purpose. If the improvements are not initiated for a period of 15 years from the date of payment, or other mutually agreeable period of time, all deposited funds shall be returned to the developer, together with accumulated interest.

ARTICLE XI

Performance and Maintenance Guarantees; Inspection; Agreement

§ 143-66. Improvements, guarantees and insurance requirements.

- A. Minor subdivision; site plans. Where improvements are required by the Chapter to be constructed as a condition of approval of a minor subdivision or a site plan, the developer shall complete all such improvements within one year from the date of approval of said minor subdivision or site plan. The developer shall also post with the Borough a performance guarantee acceptable to the Borough Attorney in an amount equal to 120% of the estimated cost of said improvements of which 10% of the total amount shall be in cash or certified check. If an extension of time for performance is granted by a municipal agency, the amount of the performance guarantee shall be reexamined and, where necessary, shall be increased.
- B. Improvements or guarantees required for final approval of major subdivisions; site plans.
 - (1) Installation of improvements. Before consideration of a final subdivision plat or final site plan the developer may elect to install all required improvements as specified in § 143-60 or § 143-61, under the supervision and inspection of the Borough Engineer or may elect to have installed: (a) the final surface course of the street pavement; (b) sidewalks; (c) monuments; (d) streetlights; (e) street signs and (f) shade trees, and post a performance guarantee acceptable to the Borough Attorney in an amount equal to 120% of the estimated cost of the remaining improvements, of which 10% of the total amount shall be in cash or certified check for the later installation of said remaining improvements. Where developer has elected to install improvements and has posted the required performance guarantees in an amount equal to 120% of the estimated cost of the balance of improvements estimated by the Borough Engineer, he shall be entitled to file the final subdivision plat and may also obtain building permits in the subdivision or section thereof for which final subdivision approval was obtained.

- (2) Posting of improvement guarantees. Instead of installing improvements and guarantees pursuant to paragraph (1) above, a developer may elect to post improvement guarantees approved by the Borough Attorney in an amount equal to 120% of the estimated cost of all improvements required by the municipal agency, as determined by the Borough Engineer, and upon filing of said acceptable performance guarantees, the developer shall be entitled to the signed final plats; however, no building permits shall be issued until the completion of all improvements except those specified in items (a) through (e) in paragraph (1) above on any street for which a building permit is sought, as well as all improvements required for the benefit or protection of all property owners in the development, such as drainage facilities, streetlighting and installation of other necessary utilities. All improvements covered by the performance guarantees shall be completed within two years of final approval unless an extension of time is granted by the approving municipal agency.
- (3) Where the developer elects to post improvement guarantees, pursuant to this subsection, the final plat or final site plan shall contain the following statement in bold letters.

Notice

Construction of all required improvements are to be completed within two years of final approval unless an extension of time has been obtained from the governing body. The municipality has no obligation to construct any improvements not commenced, nor to complete any improvements commenced by developer except to the extent of funds received from the performance guarantees posed by developer with the municipality.

- C. General liability insurance requirements. The Developer shall file with the Borough Council a general liability insurance policy at the same time that he files any required performance guarantee provided, however, that the municipal agency may waive this requirement for good cause when the agency attorney and engineer so advise. The Borough Attorney shall approve any policy as to form. The policy shall be of the same term as the performance guarantee and shall be extended in conformance with any extension of the performance guarantee. The policy shall insure the Borough and the developer and cover all operations in the development involving existence and maintenance of property and buildings and contracting operations of every nature including all public improvements. The policy shall have limits of liability of at least \$100,000 for bodily injury for each person and \$300,000 liability on the aggregate for each accident and \$25,000 aggregate property damage liability, provided; however, that such limit shall be considered minimum and higher liability limits may be required by the municipal agency or by the Borough Council with respect to specific projects where the possible liability would warrant such increase.

§ 143-67. Release of guarantees; inspection of improvements.

- A. The time allowed for installation of the improvements for which the performance guarantee has been provided may be extended by the Borough Council by resolution. As a condition as part of any such extension, the amount of any performance guarantee shall be increased or reduced in accordance with the provisions of N.J.S.A. 40:55D-53 by the Borough Council by resolution where portions of the improvements have been certified by the Borough Engineer to have been completed.
- B. If the required improvements are not completed or corrected in accordance with any performance guarantee the obligor insurety, if any, shall be liable thereon to the Borough for the reasonable cost of the improvements not completed or corrected and the Borough may either, prior to or after the receipt of the proceeds thereof, complete said improvement.
- C. Upon substantial completion of all required appurtenant utility improvements, and the connection of same to the public system, the obligor may notify the governing body in writing, by certified mail addressed in care of the municipal Clerk of the completion or substantial completion of improvements and shall send a copy thereof to the municipal engineer. Thereupon the municipal engineer shall inspect all improvements of which such notice has been given and shall file a detailed report, in writing, with the governing body, indicating either approval or rejection of such improvements with a statement of reasons for any rejection. The cost of the improvements as approved or rejected shall be set forth.
- D. The Borough Council shall either approve, partially approve or reject the improvements, on the basis of the report of the Borough Engineer and shall notify the obligor in writing by certified mail of the contents of the report and the action of the approving authority with relation thereto, not later than 65 days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted the obligor shall be released from all liability pursuant to its performance guarantee except for that portion adequately sufficient to secure provision of the improvements not yet approved; provided that 30% of the amount of the performance guarantee may be retained to ensure completion of all improvements. Failure of the governing body to send or provide such notification to the obligor within 65 days shall be deemed to constitute approval of the improvements and the obligor and surety, if any, shall be released from all liability pursuant to such performance guarantee.
- E. If any portion of the required improvements is rejected, the approving authority may require the obligor to complete such improvements and, upon completion, the same procedure of notification as hereinabove set forth shall be followed.
- F. All improvements which will be subject to acceptance by the Borough Engineer shall be subject to inspection by the Borough Engineer, who shall be notified by the Developer at least 24 hours prior to the start of construction. No underground installation shall be covered until inspected and approved by the Engineer. The obligor shall reimburse the Borough for all reasonable inspection fees paid to the Borough Engineer for the foregoing inspection improvements.

§ 143-68. Developer's agreement.

- A. Prior to any construction and coincident with the furnishing of the performance guaranty by the developer, there shall be drafted an agreement between the developer and the Borough of Butler incorporating all of the terms and conditions of approval imposed by the Planning Board. The agreement must contain the following provision: "It is hereby understood and agreed that in the event the principal shall default in the performance of its obligation under this agreement, then the Borough shall perform said principal's obligation at the option of the Borough Council." Any cost incurred by the Borough in performing the principal's obligation shall be charged to the developer under conditions to be established in the agreement.
- B. Implicit in every preliminary approval and part of each such agreement in connection with final approval shall be the agreement of the developer to:
- (1) Procure any drainage, sight triangle, snow removal and other appropriate easements as are deemed necessary by the approving authority.
 - (2) Make such revisions in the development plan as may be reasonably required before or during construction by the Borough Engineer. All drainage problems shall be resolved to the satisfaction of the Borough Engineer prior to the acceptance by the Borough of any road and related improvements in the subdivision.

§ 143-69. Maintenance guaranty.

The agreement shall provide for a maintenance guaranty to be posted with the governing body for a period to two years after final acceptance of the improvements in an amount not to exceed 15% of the cost of the improvements. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guaranty to another governmental agency, no performance or maintenance guaranty, as the case may be, shall be required by the municipality for such utilities or improvement. The Borough Engineer and the Planning Board shall review the maintenance bond, and it shall be reviewed by the Borough Attorney as to form, sufficiency and execution and approved by the governing body. The maintenance bond shall be expressly conditioned upon the maintenance by the subdivider of all such improvements for a period of two years and particularly shall guarantee the remedying of any defects in such improvements which occur during said period. The maintenance guaranty shall further guarantee the replacement of any dead or diseased shade trees and plantings.

§ 143-70. Inspection fees.

The agreement shall also provide that the obligor reimburse the Borough for all reasonable inspection fees paid to the Borough Engineer for the foregoing inspection of improvements, provided that the Borough may require of the developer a deposit for all or a portion of the reasonably anticipated fees to be paid to the Borough Engineer for such inspection.

§ 143-71. Development by stages or sections.

In the event that final approval is by stages or sections of development, the provisions of this section shall be applied by stage or section.

ARTICLE XII

Design and Construction Standards for Subdivisions**§ 143-72. General.**

- A. Development pattern. The development shall conform to design standards that will encourage good development patterns within the Borough.
- B. Conformity to master plan and official map. The development shall conform to the proposals and conditions shown on the Official Map and Master Plan. The streets, drainage rights-of-way, school sites, public parks and playgrounds shown on an officially approved Master Plan or Official Map shall be considered in the approval of subdivision plats.
- C. Conformity with statutes. Streets and drainage rights-of-way shall be shown on the final plans in accordance with the applicable statutes of New Jersey and shall be such as to lend themselves to the harmonious development of the Borough and enhance in the public welfare in accordance with the design standards in the following subsections.

§ 143-73. Streets.

- A. General. All new streets and roads in the Borough shall be graded to a minimum width of 50 feet. The road bed shall be thoroughly compacted and the street shall be paved with a ten-inch thick Bituminous Concrete Pavement, consisting of a four-inch thick Dense Graded Aggregate Base Course, a four-inch thick Bituminous Stabilized Base Course, Mix 1-2, and two-inch thick Bituminous Concrete Surface Course, Mix 1-5. All construction and construction methods shall be in accordance with the "New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction, 1989", including amendments and supplements, except as modified below:
 - (1) Four-inch-thick dense graded aggregate base course. No stone shall be laid on the subgrade until the subgrade has been thoroughly inspected by the Borough Engineer or his duly authorized representative and meets his approval. Copies of supplier delivery slips shall be furnished to the Borough Engineer for information purposes.
 - (2) Four-inch-thick bituminous stabilized base course, Mix 1-2. Bituminous stabilized base course shall not be installed until the dense graded aggregate base course has been thoroughly inspected by the Borough Engineer or his duly authorized representative and meets his approval. The Borough Engineer shall be given 72 hours' notice of the intention to install the Bituminous Concrete Surface Course. Copies of supplier delivery slips shall be furnished to the Borough Engineer for information purposes.

- B. Arrangement. The arrangement of streets not shown on the Master Plan or Official Map shall be such as to provide for the appropriate extension of existing streets.
- C. Minor streets. Minor streets shall be so designed as to discourage through traffic.
- D. Marginal access. Subdivision abutting arterial streets shall provide a marginal service road or reverse frontage with a buffer strip or planting or some other means of separation of through and local traffic as the Planning Board may determine appropriate.
- E. Right-of-way width. The right-of-way width shall be measured from lot line to lot line and shall not be less than 50 feet or such greater width as may be shown on the Master Plan or Official Map.
- F. Pavement width. The pavement width of public streets shall be measured from curb to curb shall be bounded by concrete or granite block curbing and shall not be less than 30 feet unless a greater width is shown on the Master Plan or Official Map.
- G. Grades. Grades of all streets in general shall conform to topography and shall not be less than 1% nor greater than 10% for minor and collector streets and 5% for arterial streets.
- H. Reserve strips. No subdivision showing reserve strips controlling access to streets shall be approved, except where the control and disposal of land comprising such strips has been placed in the governing body under conditions approved by the Planning Board.
- I. Existing streets. Subdivisions that adjoin or include existing streets that do not conform to the widths as shown on the Master Plan or Official Map or the street width requirement of this chapter shall dedicate additional width along either one or both sides of said road. If the subdivision is along one side only, 1/2 of the required extra width shall be dedicated.
- J. Intersections. Street intersections shall be as nearly at right angles as is possible and in no case shall be less than 60°. The block corners at intersections shall be rounded at the curblines with a curve having a radius of not less than 35 feet and rounded at the property line with a curve having a radius of not less than 25 feet. No more than two streets shall meet or intersect at any one point.
- K. Sidewalks. All new streets and roads in the Borough shall be provided with concrete sidewalks along the entire frontage of the roadway, including both sides and around culs-de-sac. The sidewalk shall be constructed as follows:
 - (1) Size. Concrete sidewalks shall be four feet wide where there is no existing sidewalk and shall be the same width as the sidewalk being replaced where there is existing sidewalk. Where the Borough finds the existing sidewalk too narrow and conditions allow for a widening, the sidewalk shall be four feet wide or the maximum allowable for conditions. The sidewalk shall be four inches thick, except at driveways. At driveways, including aprons, the sidewalk shall be six inches thick with reinforcing.
 - (2) Strength and reinforcing. The concrete shall be 4,000 psi (pounds per square inch) strength. Reinforcing shall be 10 gauge, six-inch-by-six-inch welded wire fabric.

Steel or plastic fillers may be used to provide the equivalent strength as wire fabric.

- (3) Mixing and placing of concrete. The concrete shall be placed on a firm foundation. Unstable material shall be removed and replaced with acceptable compacted material. Immediately before placing the concrete, the underlying materials shall be thoroughly dampened and the forms given a coating of light oil. Where removed and used again, the forms shall be thoroughly cleaned and oiled each time before using.
- (4) Finishing.
 - (a) The concrete shall be struck off with a transverse template resting upon the side forms. After the concrete has been struck off the required cross-section, it shall be finished with floats and straightedges until a smooth surface has been obtained. When the surface of the concrete is free from water and just before the concrete attains its initial set, the surface shall be gone over and finished with a wooden float and brushed with a wet, soft-haired brush. The surface of the concrete shall be so finished as to drain completely at all times. All edges shall be finished and rounded with an edging tool having a radius of 1/4 inch.
 - (b) The surface shall be divided into blocks by use of a grooving tool. Grooves shall be so placed as to cause expansion joint to be placed at a groove line. The grooves shall be cut to a depth of not less than 1/2 inch. The edges of the groove shall be finished with an edging tool having a radius of 1/4 inch.
- (5) Expansion joints.
 - (a) Expansion joints shall be 1/2 inch wide, placed at intervals of approximately 20 feet and shall be filled with preformed expansion joint filler. Expansion joints shall be formed around all appurtenances such as manholes and utility poles extending into or through the concrete. Preformed expansion joint filler, 1/4 inch thick, shall be installed in these joints. Expansion joint filler shall be installed between concrete and any fixed structure, such as a building or bridge. The expansion joint material shall extend for the full depth.
 - (b) The top and ends of expansion joint material shall be cleaned as concrete, and the expansion joint material shall be so trimmed as to be slightly below the surface of the concrete.
- (6) Protection and curing.
 - (a) Forms may be removed when the removal does not damage the concrete. No pressure shall be exerted upon the concrete when removing forms. When the ambient temperature is expected to fall below 40° concrete shall not be placed. An exception shall be when the Borough determines a delay is a problem. In such conditions, provisions shall be made to protect the concrete against freezing.

- (b) Pedestrians will not be permitted upon concrete sidewalks or driveway aprons until 24 hours after finishing concrete. Vehicles or loads shall not be permitted on any sidewalk, driveway, or median until the concrete has attained sufficient strength.
 - (c) Such barricades and protection devices as are necessary shall be constructed and placed to keep pedestrians and other traffic off the sidewalks and driveway aprons.
 - (d) Any sidewalk or driveway damaged shall be repaired by removing concrete within groove limits and replacing it with concrete of the type and finish as is in the original construction. Damage caused by construction operations or cold weather shall be repaired.
- L. Street jogs. Street jogs with center-line offsets of less than 125 feet shall be prohibited.
- M. Tangents. A tangent at least 50 feet long on minor streets, 100 feet long on collector streets and 300 feet long on arterial streets shall be introduced between reverse curves.
- N. Street line deflection. When connecting street lines deflect from each other at any one point by more than 10° and not more than 45°, they shall be connected by a curve with a radius of not less than 100 feet for minor streets and 300 feet for collector and arterial streets.
- O. Changes in grade. All changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance.
- P. Dead-end streets (cul-de-sac). Dead-end streets (cul-de-sac) shall not be longer than 600 feet and shall provide a turnaround at the end with a radius of not less than 50 feet and tangent, whenever possible, to the right side of the street. If a dead-end street is of a temporary nature, a similar turnaround may be required. When such provisions are made, the developer shall also provide for the excess right-of-way to be conveyed to the adjoining property owners at the time provisions are made for the extension of the street. An easement for snow removal extending 10 feet beyond the pavement of the cul-de-sac shall be provided unless the right-of-way extends at least 10 feet beyond the pavement.
- Q. Street names. No street shall have a name which will duplicate or nearly duplicate so as to be confused with the names of existing streets. The continuation of an existing street shall have the same name.
- R. Sight triangles. Sight triangles shall be required at each quadrant of an intersection of streets and streets with driveways. The area within a sight triangle shall be dedicated easement by deed as a part of the street right-of-way and shall be maintained as a part of the lot adjoining the street or site plan as a sight triangle easement. Within a sight triangle, no grading, planting or structure shall be erected or maintained more than 30 inches above the curb or edge of the roadway or lower than eight feet above the center-line grade of either intersecting street or driveway, excluding street name signs or any signs as regulated by the Manual of Uniform Traffic Control Devices. Where any street or driveway intersection involves earth or rock banks or vegetation, including trees, the developer shall trim such vegetation and remove the trees as well as establish proper

excavation and grading at the direction of the Borough Engineer to provide the sight triangle. The sight points located on each of the two intersecting street center-lines shall be the following distances away from the intersecting street center lines; arterial streets at 300 feet, collector streets at 200 feet, primary and secondary streets at 90 feet and driveways at 45 feet. Where the intersection streets are both arterial, both collectors or one arterial and one collector, two overlapping sight triangles shall be required, formed by connecting the sight points aforementioned with a sight point 90 feet on the intersecting street. Any proposed construction requiring site plan approval shall provide sight-triangle easements at each driveway, with the driveway classified as a secondary local street for the purpose of establishing distances. A sight-triangle easement dedicated shall be expressed on the plat as follows: "Sight-triangle easement subject to grading, planting and construction restrictions as directed by the Borough Engineer." Portions of a lot set aside for the sight triangle shall be calculated in determining the lot area and may be included in determining the minimum setbacks required by the Zoning Regulations.

§ 143-74. Blocks.

- A. General. Block length and width or acreage within bounding roads shall be such as to accommodate the size of the lot required in the area by the zoning regulations and to provide adequately for sewage disposal, convenient access, circulation, control and safety of street traffic.
- B. Size. Blocks shall not be less than 600 feet nor more than 1,200 feet in length and not a lesser number of feet in width than is necessary to comply with the zoning regulations except where the municipal agency may deem that the existing conditions or special plans warrant a variation from such minimum requirements.
- C. Commercial. Block sizes for commercial, business or industrial use shall be sufficient to meet all area and yard requirements for such use.

§ 143-75. Lots.

- A. General. Lot dimensions, front, side and rear yards, frontage and total area in square feet shall not be less than the requirements of the zoning regulations of the Borough.
- B. Side lines. Insofar as is practical, side lot lines shall be at right angles to streets and radial to curved streets.
- C. Setbacks. Where extra width has been dedicated for widening of existing streets, lots shall begin at such extra width line, and all setbacks shall be measured from such line.
- D. Substandard suitability. Where there is a question of the suitability of a lot or lots for their intended use due to factors such as flood conditions, sewage disposal or similar circumstances, the municipal agency may, after adequate investigation with professional assistance, if deemed necessary, withhold approval of such lots.
- E. Lot grading. A preliminary grading and drainage system plan shall be a part of the preliminary layout. The drainage system and contouring of the land shall conform to design criteria furnished upon request by the Borough Engineer. The drainage system

shall be adequate to discharge or store and discharge the stormwater runoff and natural drainage water which originate not only within the property boundaries but also upstream or upland of the property boundaries. No stormwater runoff or natural drainage water shall be so diverted as to overload existing drainage systems or create flooding or the need for additional drainage structures on other private properties or public lands without proper and approved provisions being made for taking care of those conditions.

- (1) The lot grading plan shall include the following information.
 - (a) Existing and proposed grades represented by contours at two-foot intervals when grades are below 20%, at five-foot intervals when grades are above 20% and by spot elevations when flatness of the plot makes the use of contours impractical. Existing contours shall be shown for a distance of 25 feet beyond the plot limits.
 - (b) Existing and proposed elevations at all plot corners, building corners, centers of swales, disposal bed corners and at the locations of all changes in direction of stormwater flow.
 - (c) Cross-sections at driveway entrances and proposed elevations at change in grade of driveways and walks, as well as the proposed and existing curb, sidewalk and road elevations at the plot corners and at changes in grades.
 - (d) Swales and other means for the disposition of all stormwater runoff originating within the plot and of stormwater originating outside the plot and which will flow into the plot.
 - (e) The proposed buildings, including all overhangs, the number of stories and the proposed elevation of all floors, basements and cellar and the front and side setback distances.
 - (f) All proposed walks, driveways, sidewalks and curbs, with widths shown.
 - (g) Type and width of existing pavement and width of the right-of-way on the road on which the plot fronts.
 - (h) Metes and bounds of all property lines, monumentation at all property corners and location of any existing fences, hedges, etc., along the property lines.
 - (i) Any changes in grade shall not exceed a slope of 3:1.
- (2) If the Borough Engineer finds that in the process of construction or as a result of changes in grades, risks or problems of soil erosion, drainage or other hazards are present, he shall require the applicant to submit a soil erosion and sediment control and/or a drainage study, as applicable.
- (3) Following final approval, but prior to the issuance of a building permit, the applicant shall submit to the Borough Engineer for his approval a separate detailed plot plan of each lot, in duplicate, prepared by a licensed professional engineer, showing all information required by Section § 143-75E.(1). Upon receipt of said

site plan, the Borough Engineer shall review the plan and determine whether or not it meets the standards set forth in this chapter. Upon making such a determination, the Engineer shall retain one copy and forward one copy of the site plan to the Construction Official.

- (4) A driveway serving single family residences shall be constructed so that there be a grade of 2% starting at the curblin and running for a distance of not less than 12 feet. There shall be a standing area in front of the garage a minimum of 25 feet in length with a grade not to exceed 5%. The portion of the driveway connecting to the standing area of the garage and the 2% grade from the curblin shall be constructed with smooth transitional curves and shall not exceed a grade of 15%.

§ 143-76. Streetlights.

Streetlights are to be installed by the utility company at each street intersection and at such other points so that the distance between light shall not exceed 500 feet. The cost of such installation shall be borne by the developer.

§ 143-77. Guard rails.

Guard rails shall be installed where deemed necessary by the Borough Engineer and to his specifications.

§ 143-78. Street signs.

Street signs shall conform to already existing street signs in the Borough and shall be placed at each street intersection, in accordance with applicable Borough ordinances and state statutes in such manner that the name of each intersecting street is clearly visible to approaching traffic.

§ 143-79. Street trees.

- A. Where required by the Planning Board, not less than two new shade trees shall be installed on each lot not closer than 25 feet to any existing or proposed streetlight or street intersection and installed in the front of the lot between the building and the street right-of-way area, and in a line with other trees planted on the same side of the same street and shall be installed so as not to interfere with utilities, roadways, schoolways or sidewalks. Trees shall be nursery-grown stock not less than 2 1/2 inches in diameter, planted and staked in a manner approved by the municipal agency. Trees shall be of the following species:

Acer campestre — Hedge Maple

Acer rubrum "October Glory" — October Glory Red Maple

Fraxinus americana "Autumn Purple" Autumn Purple Ash

Fraxinus pennsylvanica — Green Ash (seedless cultivars only)

Ginkgo biloba — Ginkgo, Maidenhair tree (males only)
 Gleditsia triacanthos inermis — Thornless Honeylocust (seedless cultivars only)
 Liquidambar styraciflua — Sweetgum
 Pyrus calleryana "Bradford" — Bradford Callery Pear (or equivalent)
 *Quercus palustris "Sovereign" — Sovereign Pin Oak
 *Quercus rubra — Red Oak
 Sophora japonica "Regent" — Regent Scholartree
 Tilia cordata "Greenspire" — Greenspire Littleleaf Linden
 Zelkova serrata "Green Vase" or "Village Green" — Japanese Zelkova
 *NOTE: Produces some litter by fruit etc. Should not be used where litter is a concern (i.e., adjacent to driveways, parking areas, steps, etc.)

- B. All trees not surviving after two years shall be replaced by the developer. Other species may be proposed in writing to the municipal agency for its approval. The municipal agency may require the subdivider or developer, at his sole expense, to retain a qualified person to report to the engineer as to what can be done to save the existing trees, etc.

§ 143-80. Monuments.

Monuments shall be of the size and shape required by N.J.S.A. 46:23.9.11 and shall be placed in accordance with the requirements of the statute and the specifications of the Borough.

§ 143-81. Utilities and drainage.

- A. General. All utilities, including water, sewerage, gas, electric, telephone and television shall be installed underground. All such installations shall be connected with an adequate approved system and shall be adequate for all present and future development of the subdivision and surrounding areas and shall be made in accordance with construction and specification standards of the Borough and Morris County where applicable and as approved by the Engineer.
- B. Inlets and storm drains. Inlets and other drainage structures shall be constructed in accordance with the construction standards and specifications of the Borough as approved by the Engineer and located where directed by the Engineer. All stormwater drains shall have a minimum inside diameter of 15 inches.
- C. Drainage design. All methods and facilities relating to stormwater management shall be in accordance with the provisions of Article XIV.
- D. Sanitary sewers.
- (1) General. Where a public sanitary sewer system is accessible, each lot shall be provided with sewage disposal facilities by the required extension of sewer mains and connections thereto. All such installations of sewer mains shall be made in accordance with the construction standards of the Borough as approved by the Engineer and N.J.D.E.P.

- (2) Private disposal system. Where a public sanitary sewer system is not accessible, the developer may be required to install sewer lines and a sanitary sewage disposal plant at his own cost and expense and in accordance with the specifications of the N.J.D.E.P. All such installations shall be subject to the approval of the governing body, the Board of Health, N.J.D.E.P. and the Borough Engineer.
 - (3) Installation of sewer lines. Where a public sanitary sewer is not accessible and where installation of sewer lines and a sanitary sewage disposal plant is not required, the developer shall install a complete sewer pipe system, including provision for the connection thereto at each lot, but, in lieu of constructing the sanitary sewage disposal plant, the developer may install individual sewage disposal systems for each lot at the time improvements are erected thereon. All such individual sewage disposal systems shall be constructed in accordance with the construction standards of the Borough as approved by the Engineer and the local Board of Health.
 - (4) House service connection. Where an individual sewage disposal system is approved for a residence located on an existing street or proposed street, it shall further be required that a house sewer service connection be extended to the lawn side of the sidewalk and capped.
- E. Water mains. Water mains shall be installed in accordance with the standards and specifications of the Borough.
- F. Fire hydrants, fire-alarm boxes, pumping stations and standpipes. Fire hydrants, fire-alarm boxes, pumping stations and standpipes shall be installed on water mains at intervals as directed by the Fire Chief and Fire Commissioner in accordance with the standards of the National Board of Fire Underwriters. All hydrants and alarm boxes shall be placed at or near street intersections or at property lines in such a manner as approved by the municipal agency, so as to least interfere with the use of roads and property. All major subdivisions without fire hydrants or water lines shall be required to provide pumping stations or standpipes as required by the municipal agency, fire chief and fire commissioner. The height of the center of the hydrant nozzle shall be 18 inches.
- G. Gas mains. Gas mains shall be installed in accordance with the requirements of the applicable ordinances of the Borough or the gas supplier.

§ 143-82. Topsoil protection.

No topsoil shall be removed from the site or used as spoil or fill. In addition, topsoil removed during the course of construction shall be redistributed so as to provide equal distribution of cover to all areas of the site and shall be stabilized by seeding and planting. At least six inches of topsoil shall be provided on all portions of lots not occupied by buildings or walks.

§ 143-83. Soil removal.

All soil removal and soil removal operations shall be subject to applicable requirements of Article XV.

§ 143-84. Preservation of landscape.

The landscape shall be preserved in its natural state, insofar as is practicable, by minimizing tree and soil removal. If the development of the site necessitates removal of established trees, special attention shall be given to the planting of replacement trees. Any grade changes shall be in keeping with the general appearance of the neighboring developed areas.

ARTICLE XIII

Design and Construction Standards for Site Plans**§ 143-85. General.**

In general, site plans shall follow the principles of design relating to subdivisions where applicable. In reviewing said site development plan, the Planning Board shall ascertain that the following requirements are complied with:

- A. That the provisions of the zoning regulations with respect to height, minimum lot areas, mandatory open spaces and the like are complied with.
- B. That adequate provision is made for off-street parking in accordance with the zoning regulations and that adequate traffic circulation, traffic safety and protection to adjoining property is provided.
- C. That adequate provision is made for the disposal of stormwater as approved by the Borough Engineer.
- D. That the location, design or construction of any building is not likely to involve risks of traffic congestion, public safety or hazard.

§ 143-86. Circulation, parking and loading.

- A. Access. Access points from any one lot crossing the street line shall be limited to a maximum of two along the frontage of any single street. The center lines of any separate access points shall be spaced at least 65 feet apart; shall handle no more than two lanes of traffic; shall be at least 20 feet from any property line; and shall be set back from the street of any intersection street at least 50 feet or 1/2 the lot frontage, whichever is greater, except that in no case need the setback distance exceed 200 feet. Continuous, open driveways in excess of 16 feet at the street line shall be prohibited, except that for nonresidential uses, driveways or more than 16 feet may be permitted with the approval of the municipal agency, giving due consideration to the proposed width, curbing, direction of traffic flow, radii or curves and method of dividing traffic lanes. Curbing shall be depressed at the driveway, or the curbing may be rounded at the corners and the driveway connected with the street in the same manner as another street.
- B. Surfacing and curbing. Off-street parking lots and loading areas, together with their access aisles, driveways and fire lanes shall not occupy more than 50% of the lot area. All parking and loading areas and access drives shall be paved as outlined below or the equivalent, as determined by the Borough Engineer and approved as part of the site plan

approval. All parking areas, regardless of size and location, shall be suitably drained and maintained.

- (1) Areas of ingress and egress, loading and unloading areas, major interior driveways or access aisles and other areas likely to experience similar heavy traffic shall be paved with not less than four inches of compacted based course of plant-mixed bituminous, stabilized base course, constructed in layers not more than two inches compacted thickness and prepared and constructed in accordance with New Jersey State Highway Department Standard Specifications for Roads and Bridge Construction and amendments thereto.
- (2) Parking stall areas and other areas likely to experience similar light traffic shall be paved with not less than three inches of compacted base course of plant-mixed bituminous, stabilized base course, prepared and constructed in accordance with the aforesaid New Jersey State Highway Department Specifications and amendments thereto.
- (3) Where subbase conditions of proposed parking and loading areas are wet, springy or of such a nature that surfacing would be inadvisable without first treating the subbase, the treatment of the subbases shall be made in the following manner: The areas shall be excavated to a depth of six to 12 inches below the proposed finished grade and filled with suitable subbase materials as determined by the Borough Engineer. Where required by the Borough Engineer, a system of porous concrete pipe subsurface drains shall be constructed beneath the surface of the parking area and connected to a suitable drain. After the subbase material has been properly placed and compacted, the parking area surfacing material, as described heretofore, shall be spread thereon.
- (4) All off-street parking lots shall have adequate designations to indicate traffic flow and parking spaces.
- (5) All paved areas shall be bounded by concrete or granite block curbing meeting specifications approved by the Borough Engineer.

C. Aisle widths. The provision of parking spaces shall include adequate driveway and necessary turning areas for handling the vehicles for which provision is made. Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Aisles providing access to parking spaces shall have the following minimum dimensions. Where the angle of parking is different on both side so the aisle, the larger aisle width shall prevail.

Angle of Parking Space (degrees)	Aisle Width (feet)	
	One-Way Aisle	Two-Way Aisle
90°	25	25
60°	18	—

Angle of Parking Space (degrees)	Aisle Width (feet)	
	One-Way Aisle	Two-Way Aisle
45°	15	—
30°	12	—
Parallel	12	25

- D. Dimensions of parking and loading spaces.
 - (1) Each parking space shall be not less than nine feet in width and 18 feet in length.
 - (2) Each loading space shall not be less than 12 feet in width, 25 feet in length and 14 feet in height, provided, however, that additional length of up to 55 feet depending on the length of vehicles using the space may be required.
- E. Location of parking and loading. All off-street parking and loading areas, except for parking which is accessory to one-and two-family dwellings, shall, unless otherwise provided by this chapter, meet the location requirements prescribed in Schedule "A".
- F. Off-street parking space requirements. Except as otherwise provided in this Article, for all new buildings or uses or additions to existing buildings or uses in all zone districts, there shall be provided the number of parking spaces required by the specific use as prescribed in Schedule "B".
- G. Off-street loading space requirements. In all districts, for every building or use requiring the receipt or distribution in vehicles of materials or merchandise, there shall be maintained on the same premises with such building or use at least one off-street loading space. Such space shall be located in the side or rear yard only, but in no case in a side yard adjoining a street.
- H. Driveway parking. Nothing shall prohibit private driveways for detached dwelling units from being considered off-street parking areas, provided that no portion of such private driveway within the right-of-way line of the street intersected by such driveway shall be considered off-street parking space. The area is intended to be sufficient to accommodate the exterior extremities of the vehicle, whether in addition thereto wheel blocks are installed within this area to prevent the bumper from overhanging one end of the parking space. The width and length of each space shall be measured perpendicular to each other regardless of the angle of the parking space to the access aisle or driveway.
- I. General requirements. Parking areas and access drives shall be paved and curbed and provided with adequate systems of storm drainage. Furthermore, each parking space is to be properly marked by lines. All parking spaces and fire lanes, parking areas and lines on pavement shall be painted and maintained so as to be visible at all times.

§ 143-87. Landscaping and buffers.

- A. Adequate provisions for landscaping and screening shall be provided as part of the overall design and shall be integrated into the building arrangement, topography, parking and buffering requirements. Landscaping shall include grass lawns, trees, bushes, shrubbery, ground area cover, perennials, annuals, plants, earth berms, sculpture, art and the use of building and paving materials in an imaginative manner. (See Appendix to Article II, Typical Buffer Area Diagram).
- B. Areas between property lines and buildings and between property lines and parking and loading areas shall be appropriately landscaped with planted buffers so as to reduce the visual impact or to obscure the view of building walls, parked vehicles and loading platforms from any public street, adjoining residential zones and properties or uses and the front yards of adjacent commercial and industrial uses. Minimum buffer widths are established in Schedule "A" and may include required building and parking setback areas and such additional area as may be required by the Planning Board. Screening materials shall be a vandal- and wind-resistant fence, wall, planting, berming or any combination thereof and shall be of sufficient height, depth and density to effectively screen the visual impacts of vehicles and building walls and the impacts of wind, dust, noise and headlight glare.
- C. Where appropriate based on the specific conditions on the lot and on adjoining property in terms of topographic features, existing vegetation, building size and location and parking arrangement, buffer screening shall meet the following minimum standards.
- (1) Buffer screening shall be provided when more-intensive land uses abut less-intensive land uses, such as, when a nonresidential use abuts a residential use and when a multi-residential abuts a single-family use. Buffer screening may also be required when incompatible nonresidential land uses abut one another or when a multifamily use abuts a nonresidential use and insufficient screening exists on the nonresidential property so as to adequately protect future residents of the multifamily development.
 - (2) When the intent is to screen parking and loading or other outdoor activities, screen planting shall consist of up to three rows of evergreen materials with staggered centers. Plant materials shall be sufficiently large and planted in such a fashion that a screen at least eight feet in height shall be produced within three growing seasons. The minimum depth of the planting areas, assuming growth to maturity, shall be 25 feet.
 - (3) The Planning Board may allow modification of the above criteria by reducing the depth of the planting area and the height of materials and allowing a combination of plant materials of varying species if said modification will achieve the same end result, especially where any of the following exist or are employed:
 - (a) Existing natural vegetation.
 - (b) Additional setback depth between the property line and the activity to be screened.

- (c) Use of earthen berms, walls, fences and other vertical installations or a combination of any of these and plant materials.
 - (d) Significant changes in elevation or other natural and topographic features which would reduce or minimize the need for or effectiveness of buffer screening.
- (4) When the intent is to minimize the visual impact of a building, less dense screening materials may be used. In such instances, more open landscaping consisting of more widely spaced trees and greater variety of species and heights may be appropriate depending upon the architectural appeal of the building, setback, natural vegetation and topographic features and the like.
- D. Plant materials shall be of a species common to the area, shall be of nursery stock and shall be free of insect and disease. Landscaping shall be permanently maintained, and plant material which does not live shall be replaced within one year or one growing season. The screen planting shall be so placed that at maturity the plant material will be no closer than three feet to any street or property line. Maximum use shall be made of existing vegetation, where appropriate, within landscaped areas.
- E. All landscaped areas shall be maintained and kept clear of all debris, rubbish, weeds and tall grass. No structure, activity, storage of materials or parking or vehicles shall be permitted in the landscaped area.
- F. Each off-street parking area shall have 300 square feet of landscaping for every 30 parking spaces with 1/2 said area having shrubs no higher than three feet and the other half having trees with branches no lower than seven feet. Such spaces shall be distributed throughout the parking area in order to break the view of long rows or parked cars in a manner not impairing visibility.

§ 143-88. Sight triangles.

Sight triangles shall be provided at all roadway and driveway intersections in accordance with the provisions of § 143-73R and the recommendations of the Borough Engineer.

§ 143-89. Lighting.

Lighting used to illuminate off-street parking areas shall be arranged to reflect the light away from residential premises and streets. All parking facilities providing five or more parking spaces shall be lighted. All parking areas and walkways thereto and appurtenant passageways and driveways serving commercial, public, office, industrial, apartment or other similar uses having common off-street parking and/or loading areas and building complexes requiring area lighting shall be adequately illuminated for security and safety purposes. The lighting plan in and around the parking areas shall provide for non-glare, color-corrected lights focused downward. The light intensity provided at ground level shall be a minimum of 0.3 footcandle anywhere in the areas to be illuminated, shall average a minimum of 0.5 footcandle over the entire area and shall be provided by fixtures with a mounting height not more than 25 feet or the height of the building, whichever is less, measured from the ground level to the center line

of the light source spaced a distance not to exceed five times the mounting height. Any other outdoor lighting, such as building and sidewalk illumination, driveways with no adjacent parking, the lighting of signs and ornamental lighting, shall be shown on the lighting plan in sufficient detail to allow determination of the effects to adjacent properties, traffic safety and overhead sky glow. The objective of these specifications is to minimize undesirable off-premises effects. No direct lighting shall be permitted. Additionally, no light shall shine into windows or onto streets and driveways in such manner as to interfere with or distract driver vision. To achieve these requirements, the intensity of such light sources, the light shielding and similar characteristics shall be subject to site plan approval by the Planning Board or Board of Adjustment.

§ 143-90. Trash, garbage and waste material.

- A. Any trash, garbage and waste material stored outside a building shall be stored in suitable containers and in fenced or walled enclosures. Said enclosures shall have four sides, one side with a gate for access and, unless masonry walls, shall be installed with steel posts in concrete footings. Enclosure height shall not be less than the height of the enclosure. All enclosures shall have a clearance of at least two feet around the container. Said enclosures may adjoin the rear wall of a building, may adjoin a side wall of a building which does not face on either a street or residential district or may be located in the rear yard and apart from the building, provided that all accessory building setbacks are met. Said enclosures shall be screened from view from any adjoining street or property when deemed necessary by the Planning Board.
- B. Any trash, garbage and waste material shall be so contained as to be protected from the elements and to eliminate the potential for accumulation or scattering of debris. Garbage of an animal or vegetable nature, any trash or waste material that would attract vermin and insects and any other waste material which, by its nature, would present a health hazard if exposed to the elements shall be stored in airtight and/or leakproof, covered metal containers as may be necessary.

§ 143-91. Recycling of recyclable materials in multifamily housing. [Amended 3-18-2006 by Ord. No. 2008-3]

- A. For purposes of this Section, the following terms shall have the following meanings:

MULTIFAMILY HOUSING DEVELOPMENT — A building containing three or more dwelling units occupied or intended to be occupied by persons living independently of each other, or a group of such buildings;

RECYCLING AREA — Space allocated for collection and storage of source separated recyclable materials.

- B. There shall be included in any new multifamily housing development that requires subdivision site plan approval indoor and/or outdoor recycling areas for the collection and storage of residentially generated recyclable materials. The number of sites and dimensions of the recycling areas shall be sufficient to accommodate recycling bins or containers which are of adequate size and number, and which are consistent with

anticipated usage and with current methods of collection in the area in which the project is located. The number of sites and dimensions of the recycling areas and the bins or containers shall be determined in consultation with the municipal recycling coordinator, and shall be consistent with the district recycling plan adopted pursuant to section 3 of P.L. 1987, c.102 (N.J.S.A. 13:1E-99.13) and any applicable requirements of the municipal master plan, adopted pursuant to section 26 of P.L. 1987, c.102.

- C. The recycling areas shall be conveniently located for the residential disposition of source separated recyclable materials, preferably near, but clearly separated from, a refuse dumpster.
- D. The recycling areas shall be well lit, and shall be safely and easily accessible by recycling personnel and vehicles. Collection vehicles shall be able to access the recycling areas without interference from parked cars or other obstacles. Reasonable measures shall be taken to protect the recycling areas, and the bins or containers.
- E. The recycling areas or the bins containers placed therein shall be designed so as to provide protection against adverse environmental conditions which might render the collected materials unmarketable. Any bins or containers which are used for the collection of recyclable paper or cardboard, and which are located in an outdoor recycling area, shall be equipped with a lid, or otherwise covered, so as to keep the paper or cardboard dry.
- F. Signs clearly identifying the recycling areas and the materials accepted therein shall be posted adjacent to all points of access to the recycling areas. Individual bins or containers shall be equipped with signs indicating the materials to be placed therein.
- G. Landscaping and/or fencing shall be provided around any outdoor recycling areas and shall be developed in an aesthetically pleasing manner.

§ 143-92. Building design.

All building shall be harmoniously related to the terrain and to existing buildings and thoroughfares in the vicinity that have a visual relationship to the proposed building. The achievement of such relationship shall include consideration of the following:

- A. The height, bulk and area of the buildings.
- B. The architectural design.
- C. The type, color and quality of exterior materials.
- D. All buildings shall be compatibly designed, whether constructed all at one time or in stages over a period of time. All building walls facing any street or residential district line shall be suitably finished for aesthetic purposes, which shall not include unpainted or painted cinder block or concrete block walls.
- E. The size, location, design, color, texture, lighting and material of all permanent signs and advertising fixtures shall not detract from the design of the proposed buildings,

structures, roads and the surrounding properties and, wherever possible, shall be in keeping with uniform signage for the area.

- F. The use of maintenance free materials, especially brick and stone, is encouraged.

§ 143-93. Energy conservation.

All site plans shall, to the greatest degree possible, follow energy efficient design principles and maximize the use of renewable energy sources. Within the limits of practicability and feasibility, the criteria listed below shall be followed:

- A. Buildings shall be oriented to maximize solar gain. Where possible, building walls with the greatest number of window or window area shall face in a southerly direction. The use of active and passive solar energy gain systems in buildings is encouraged.
- B. Buildings shall be arranged to provide maximum protection to each other in terms of energy consuming elements.
- C. The use of energy-efficient building materials and colors is encouraged.
- D. Site arrangement shall take advantage of topographic features to maximize solar gain and afford protection from winter winds.
- E. Natural vegetation and landscaping, including fences, walls and earthworks, shall be utilized to maximize protection from wind and channel breezes and shade buildings and pavement.
- F. The site shall be designed to minimize pavement and afford efficient circulation. The use of footpaths and bike paths in multifamily housing developments, in order to reduce motor vehicle use, is encouraged.

§ 143-94. Site plans for planned developments.

In the case of a site plan for a planned development, such as a townhouse or apartment complex, the following additional design criteria shall be met:

- A. That the proposals for maintenance and conservation of the common open space are reliable, and the amount, locations and purpose of the common open space are adequate.
- B. That provision through the physical design of the proposed development for public services, control over vehicular and pedestrian traffic, and the amenities of light and air, recreation and visual enjoyment are adequate.
- C. That the proposed development will not have an unreasonably adverse impact upon the area in which it is proposed to be established.
- D. Parking spaces shall not be entered directly from a public street.
- E. All off-street parking areas and internal roadways shall be paved, bounded by permanent curbing and constructed in accordance with this and other applicable ordinances.

- F. The arrangement and location of garages, parking areas and internal roadways shall be subject to approval of the Planning Board and shall be designed to insure maximum safety, proper circulation and maximum convenience for residents and their guests.
- G. All common open space shall be attractively landscaped with grass lawns, trees and shrubs. Provision shall be made for the preservation of existing trees and natural features.
- H. Internal roadways and driveways shall be at least 26 feet in width for two-way traffic and at least 12 feet in width for one-way traffic; provided, however, that the Planning Board may require that roadways and driveways be up to 34 feet wide for main entrance roads and roads serving more than 10 dwelling units or collecting traffic from more than 100 dwelling units. The circulation system shall be designed to safely and efficiently accommodate emergency vehicles, moving vans, solid waste disposal vehicles and the like. Roadways and driveways shall not enter a public street within 50 feet of an intersection. Parking in internal roadways and driveways shall be prohibited.
- I. All parking shall be specifically designated on a site plan for that purpose. Off-street parking areas shall be located beyond the street setbacks for principal buildings. Parking areas are to be constructed to the rear of principal buildings, but only provided that the area is adequately serviced by a roadway and not to be considered part of such roadway.
- J. Access drives shall be located at least 50 feet from an intersection. All traffic ingress and egress to the site shall be from an arterial street and not from a minor street. Such ingress and egress shall be subject to Planning Board approval.
- K. Parking areas and access drives shall be paved and curbed and provided with adequate systems of storm drainage. Furthermore, each parking space is to be properly marked by lines. All parking spaces and fire lanes, parking areas and lines on pavement shall be painted and maintained so as to be visible at all times.
- L. Garages.
 - (1) Maximum joint capacity of each group of garage spaces arranged in a row; 12 vehicles.
 - (2) Vehicular access to garages shall be from the side or rear of the principal building unless located in a townhouse unit.
 - (3) The entrance to such garages shall not be on any main access street or public street.
- M. Building design must be residential in character, conforming to the established character of the neighborhood and in keeping with the current residential design. Architectural design and materials used in construction of garages and accessory buildings shall conform to those used in the construction of the principal buildings. The floor plan of each dwelling unit is to be approved by the Planning Board. The approved plan shall not be altered in any way without the consent of the Planning Board.
- N. Sidewalks.

- (1) Concrete, brick or paver block sidewalks, to be constructed in accordance with Borough specifications to a paved width of not less than four feet, shall be provided:
 - (a) To and from buildings and parking areas.
 - (b) To and from buildings and roads or accessways.
 - (c) To all service areas.
 - (d) Wherever else required by the Planning Board at the time of site plan approval.
 - (2) No sidewalks, except those leading to and from building entrances and exits, shall be placed closer to a building than 10 feet, but sidewalks may be placed in landscaped areas and within required yard setback areas.
- O. Landscaping. All areas of the site not used for the construction of buildings, roads, accessways, parking areas or sidewalks shall be fully and attractively landscaped with trees, shrubs and grass lawns. Any trees or shrubs in a healthy state at the time the development begins shall remain and be protected during the construction, provided that they are within areas designated as "open space" and not subject to extreme grading. At least 10% of the gross site shall be devoted to common open space for use of residents.
- P. Buffers. A minimum buffer area of 50 feet shall be provided within the building setback area along any common property line with another residential district or residential use. Within such buffer area, no existing trees, shrubs or planting shall be cut, uprooted, destroyed or taken away. If no trees, shrubs or other substantial planting exists in the buffer in natural state before development, a satisfactory approved plan will be developed to provide a belt of evergreen screening within such buffer. Such screening shall have a minimum height of six feet at the time of planting. All plantings that die within two years of installation will be replaced with plantings of the same type and height. Fencing may be used if approved by the Planning Board.
- Q. Solid waste; recycling. Provision shall be made for the storage and collection of trash, garbage and other waste material in accordance with applicable provisions of § 143-90. Exterior garbage containers shall be so located as to efficiently service all dwelling units but shall be clustered so as to have a minimum number of areas. All such areas shall be provided with sufficient screening on all sides by wood or other similar materials so as to prevent access to the same by animals, which said screening shall be at least six feet in height and designed so as to harmonize with the other architectural elements on the site. Garbage containers shall be a minimum of 25 feet from all property lines. Provisions shall also be made for the deposit and collection of recyclable materials consistent with the above provisions and in accordance with the requirements of § 143-91.
- R. Lighting. Interior roads, driveways, private thoroughfares, parking areas, building entranceways and pedestrian walks shall be provided with sufficient illumination to minimize hazards to pedestrians and motor vehicles utilizing the same and shall, where necessary, be shielded to avoid glare to occupants of buildings and adjoining areas. Lighting shall be so arranged as to reflect away from any adjoining properties. All

lighting shall be designed in accordance with standards set forth in the IES Lighting Handbook.

- S. Recreational equipment. Recreational equipment shall be provided in such locations as shown on the approved site plan, but at no time shall such equipment be permitted in front or side yards.
- T. All telephone, electric and community antenna television service facilities on the property shall be by underground conduit by arrangement with the appropriate utility companies and in accordance with the latest requirements of the Board of Public Utility Commissioners.
- U. Except for service connections to buildings, all water mains and sanitary sewer lines shall be located within utility easements granted to the Borough where required.
- V. Fire hydrants and fire alarm boxes shall be installed in locations specified by the Fire Prevention Bureau.
- W. Site maintenance. All buildings, paved areas and landscaping shall be adequately maintained at all times. Dead trees or shrubs shall be replaced by the owner. Failure of the owner to comply with these provisions within six months of notification by the Borough Engineer shall be considered a violation of this Chapter 143.

§ 143-95. Open space organization.

- A. Establishment required. In any residential development providing common open space as an appurtenance, the developer shall provide for the establishment of a homeowners' association or other for recreational and common lands and facilities organization for the ownership and maintenance of any open space, for the benefit of owners or residents of the development. Any such association or organization, shall be in accordance with the following provisions:
 - (1) Membership in the created homeowners' association by all property owners shall be mandatory. Such required membership in any created homeowners' association and the responsibilities upon the members shall be in writing between the association and the individual in the form of a covenant with each member agreeing to his liability for his pro rata share of the associations' costs and providing that the Borough shall be a party beneficiary to such covenant entitled to enforce its provisions.
 - (2) Executed deeds shall be tendered to the Borough simultaneously with the granting of final subdivision approval stating that the prescribed use(s) of the lands in the common ownership shall be absolute and not subject to reversion for possible future development.
 - (3) The homeowners' association shall be responsible for liability insurance, local taxes, maintenance of land and any facilities that may be erected on any land deeded to the homeowners' association and shall hold the Borough harmless from any liability.

- (4) The assessment levied by the homeowners' association may become a lien on the private properties in the development. The duly created homeowners' association shall be allowed to adjust the assessment to meet changing needs, and any deeded lands may be sold, donated or in any other way conveyed to the Borough for public purposes only.
 - (5) The homeowners' association initially created by the developer shall clearly describe in its bylaws the rights and obligations to any homeowner and tenant in the development, along with the covenant and model deeds and the articles of incorporation of the association prior to the granting of final approval by the Borough.
 - (6) Part of the development proposals submitted to and approved by the Borough shall be provisions to insure that control of the homeowners' association will be transferred to the individual lot owners in the development based on a percentage of the dwelling units sold and/or occupied, together with assurances in the bylaws that the homeowners' association shall have the maintenance responsibilities for all lands to which they hold title.
- B. Restrictions on dissolution and disposal of open space. Such organization shall not be dissolved and shall not dispose of any open space, by sale or otherwise, except to an organization conceived and established to own and maintain the open space or the benefit of such development, and thereafter such organization shall not be dissolved nor dispose of any of its open space without first offering to dedicate the same to the Borough.
- C. Correction of deficiencies. In the event that such organization shall fail to maintain the open space in reasonable order and condition, the governing body or its designated agent may serve written notice upon such organization or upon the owners of the development, setting forth the manner in which the organization has failed to maintain the open space in reasonable condition, and said notice shall include a demand that such deficiencies of maintenance be cured within 35 days thereof and shall state the date and place of a hearing thereon, which shall be held within 15 days of the notice. At such hearing, the governing body may modify the terms of the original notice as to deficiencies and may give a reasonable extension of time, not to exceed 65 days, within which they shall be cured. If the deficiencies set forth in the original notice or in the modification thereof shall not be cured within said 35 days or any permitted extension thereof, the governing body, in order to preserve the open space and maintain the same for a period of one year, may enter upon and maintain such land. Said entry and maintenance shall not vest in the public any rights to use the open space except when the same is voluntarily dedicated to the public by the owners. Before the expiration of said year, the governing body shall, upon its initiative or upon the request of the organization theretofore responsible for the maintenance of the open space, call a public hearing upon 15 days' written notice to such organization and to the owners of the development, to be held by the governing body, at which hearing such organization and the owners of the development shall show cause why such maintenance by the municipality shall not, at the election of the municipality, continue for a succeeding year. If the governing body shall determine that such organization is ready and able to maintain said open space in reasonable condition, the municipality shall cease to maintain said open space at the end of said year. If the governing body shall determine that such organization is not ready and able to maintain

said open space in a reasonable condition, the municipality may, in its discretion, continue to maintain said open space during the next succeeding year, subject to a similar hearing and determination in each year thereafter. The decision of the governing body in any such case shall constitute a final administrative decision, subject to judicial review.

- D. Assessment of municipal maintenance costs. The cost of such maintenance by the municipality shall be assessed pro rata against the properties within the development that have a right of enjoyment of the open space in accordance with assessed value at the time of imposition of the lien and shall become a lien and tax on said properties and be added to and be a part of the taxes to be levied and assessed thereon and shall be enforced and collected with interest by the same officers and in the same manner as other taxes.

ARTICLE XIV
Regulation of Slopes
 [Amended 11-20-2007 by Ord. No. 2007-29¹]

§ 143-96. (Reserved)

§ 143-97. (Reserved)

§ 143-98. (Reserved)

§ 143-99. (Reserved)

§ 143-100. (Reserved)

§ 143-101. (Reserved)

§ 143-102. (Reserved)

§ 143-102.01. **Regulation of slopes.**

A. Statement of purpose.

- (1) It is the purpose of this section to establish regulations for development within critical areas of steep slopes and to prevent inappropriate development in areas of excessive slopes.

1. Editor's Note: This ordinance also repealed §§ 143-96 through 143-102 of former Art. XIV, Stormwater Management. See now Art. XXIII, Stormwater Management, and Art. XXIV, Stormwater Management for Minor Subdivisions and Individual Single-Family Properties.

- (2) These special development controls are provided in recognition of the potentially negative impacts associated with the removal of vegetative cover, the disturbance of the soil by excavation or fill, and the construction of buildings, structures, roadways and associated site disturbances within these areas of steep slopes in the Borough of Butler which will cause an increase of surface water runoff, soil erosion and siltation, with the resultant pollution of streams as well as the potential danger of flooding and water damage and thereby having the potential of endangering public and private property and life.
 - (3) Development on the slopes can create additional hazards to the lives and property of those having structures on the slopes and below them.
 - (4) The most appropriate method of alleviating such conditions is through the regulation of the removal of such vegetation and soil disturbance, construction and development.
 - (5) It is determined that the special and immediate public interest in these slopes justifies the regulation of property located thereon as provided in this subsection which is the exercise of the police power of the Borough for the protection of persons and property of its inhabitants and for the preservation of the public health, safety and general welfare.
 - (6) It is not the purpose of this section to establish densities but rather to control development within appropriate areas.
- B. Applicability. All development projects, regardless of whether any site plan, subdivision, soil erosion and sediment control plan, lot grading plan, or other development application, permit or approval is required, shall be required to prepare a steep slope map and comply with the restrictions outlined in this section.
- C. Definitions. For the purpose of this section, certain terms are defined and shall be construed as follows:
- DEVELOPMENT AREA — That part of the permitted building envelope which is intended to be used for a structure and is so designated for soil disturbance necessary for the development of the lot.
- EXCESSIVE SLOPE — Any slope which has a grade of 25% or more.
- MINOR TOPOGRAPHIC VARIATION — Slopes of 25% or more shall not occur in more than 10% of any area of the lot.
- STEEP SLOPES — Any slope which has a grade greater than or equal to 15% but less than 25%.
- D. Steep slope map details. A steep slope map shall include the following information:
- (1) A plan shall be drawn by a licensed professional engineer at a scale of not less than one inch equals 30 feet.
 - (2) Existing and proposed grades represented by contours at two-foot intervals when grades are below 30%, at five-foot intervals when grades are 30% or more, and by

spot elevations when flatness of the plot makes the use of contours impractical. Existing contours shall be shown for a distance of 25 feet beyond the plot limits.

- (3) Slope classification map indicating existing grade categories as follows: 0% to 14.99%; 15% to 19.99%; 20% to 24.99%; 25% to 29.99%; and slopes 30% or more. A table indicating the degree of slope disturbance, pursuant to subsection § 143-102.01E.1 of this section shall be provided.
- (4) Existing and proposed elevations at all plot corners, building corners, centers of swales, disposal bed corners, and at the locations of all changes in direction of stormwater flow.
- (5) Proposed elevations at changes in grade of driveways and walks, as well as the proposed and existing curb, sidewalk, and road elevations at the plot corners and at changes in grades.
- (6) Location and details of swales and other means for the disposition of all stormwater.
- (7) The location of the proposed dwelling including the location of the garage, all overhangs, the number of stories of the dwelling, and the proposed elevation of all floors, cellar and garage and all setback distances.
- (8) The location of proposed pedestrian and vehicular facilities including walks, roads, drives or parking areas with both vertical and horizontal alignments properly dimensioned.
- (9) Type and width of existing pavement and width of right-of-way on road on which plot fronts.
- (10) Metes and bounds of all property lines, monuments at all property corners and location of any existing fences, hedges, etc., along the property lines.
- (11) A soil erosion and sediment control plan.
- (12) Drainage study as applicable or required by the Planning Board and/or the Borough Engineer.
- (13) Location of all buildings on adjoining lots within 200 feet.
- (14) The proposed elevations of the levels of land above and below retaining walls as well as top of wall elevations.
- (15) The location of all existing and proposed landscaping including trees having a diameter of three inches or greater as measured at a point one foot above the ground, shrubs and ground covers with type and size of trees or shrubs and specifications for ground covers.
- (16) The disposition and extent of topsoil to be removed or backfilled.
- (17) The disposition and extent of all other soil to be removed and backfilled.

(18) The plans and specifications for any proposed retaining walls, steps, fences or other protective structures.

E. Development regulations. Within any area of steep or excessive slopes, no soil or vegetation shall be disturbed nor shall any building or structure be erected, constructed or substantially enlarged or lot created unless and until it can be demonstrated by information, plans and studies furnished by the applicant that the following requirements can be met:

(1) Construction control limitations. Disturbance of steep slopes shall be limited to the following based on the indicated slope classifications:

Slope	Maximum Permitted Disturbance of Slope Area	Permitted Development Activity
Less than 15%	100%	All activities
15% to 19.9%	50%	All activities subject to review and approval of individual grading and site plans per Subsections D and E above
20% to 24.9%	30%	All activities subject to review and approval of individual grading and site plans per Subsections D and E above.
25% to 30%	15%	Only transitional grading
30% or more	0%	No disturbance permitted

(2) No soil shall be excavated, removed, deposited or disturbed within an area of steep or excessive slopes except as a result of and in accordance with a site plan approved under the terms of this subsection.

(3) Proposed disturbances of soil shall be for purposes consistent with the intent of this subsection and it shall be controlled in a manner that will not cause excessive erosion or other unstable conditions.

(4) Provision shall be made for the proper disposition of surface water runoff, both during and post construction, so that it will not create unstable conditions. Appropriate storm drainage facilities shall be constructed as deemed necessary and adequate protective measures shall be provided for downstream properties.

- (5) Provision shall be made for any structures or protective measures that proposed slopes may require for the protection of the public safety including but not limited to retaining walls, headwalls and fences.
 - (6) Proper facilities have been or will be provided for a safe water supply and for the disposal of sanitary sewage as approved by the Health Officer.
 - (7) Any proposed building or structure or attendant protective measures will not impede the flow of surface waters through any watercourse.
 - (8) Any proposed building or structure shall be of sound engineering design with footings designed to extend to stable soil and/or rock with proper lateral support and that when built may be occupied without peril to the health or safety of the occupants as approved by the Construction Official.
 - (9) Any proposed vehicular facilities including roads, driveways or parking areas shall be so designed that any land disturbances shall not cause excessive erosion. Both the vertical and horizontal alignment of vehicular facilities shall be so designed that hazardous circulation conditions will not be created.
 - (10) All structures shall be constructed in all instances on slopes that do not exceed 25%.
 - (11) All public and private streets and roadways shall follow, to the extent possible, the existing natural terrain and slope. Such improvements shall be constructed in all instances on slopes that do not exceed 25%.
 - (12) Except for minor topographic variations, driveway grades and the soil cuts/fills in areas of steep slopes are critical concerns of this subsection and shall not be constructed unless the Borough Engineer or the Planning Board, as the case may be, is assured that the design achieves the highest standards established by this subsection. The connection of any driveway to a street shall be by a vertical curve of sufficient radius to provide a smooth transition. Said vertical curve and driveway profile shall be designed to accommodate the Master Plan road width. The maximum allowable grade for driveways is 15%. A maximum grade of 2% shall be required for the first 20 feet of driveway, measured from the curblines. The horizontal angle of intersection of a driveway with a street shall not be less than 60°.
 - (13) Any fill placed on the lot shall be properly stabilized and, when found necessary depending upon existing slopes and soil types, supported by retaining walls or other appropriate structures as approved by the Borough Engineer.
 - (14) All cuts/fills shall be supported by retaining walls or other appropriate retaining structures, when, depending upon the nature of the soil characteristics, such structures are found necessary by the Borough Engineer in order to prevent erosion and achieve greater soil stabilization.
- F. Steep and excessive slope area regulations take precedence. In the event of any conflict between any other provision of Chapter 143 and this ordinance, the provisions of this § 143-102.01 shall prevail.

Part 4
Soil Removal

ARTICLE XV
Regulations for Soil Removal

§ 143-103. Permit required.

No person shall excavate, scrape, dig or otherwise disturb the soil on any premises in the Borough for use other than on the premises from which it shall be taken, nor shall any person remove or cause the removal of any soil from any premises in the Borough for use on other premises, whether such removal is for sale, gift or otherwise, unless a permit therefore is first secured from the Mayor and Borough Council, as hereinafter provided. No person shall cause soil or like material to be deposited on any premises to the extent that the existing contours of the premises would be modified, unless a permit therefore is first secured from the Mayor and Council as hereinafter provided. Exception to this requirement shall be the addition of less than 50 cubic yards of soil for lawn, garden improvements and foundation excavations.

§ 143-104. Application requirements.

- A. Application for soil permit shall be filed with the Borough Clerk and shall be accompanied by the fee prescribed in § 143-44. Application shall be made in triplicate on forms prescribed by the Borough and supplied by the Borough Clerk.
- B. The application shall set forth the following:
- (1) The name and address of the applicant.
 - (2) The name and address of the owner, if other than the applicant.
 - (3) The description and location of the land in question, including the Tax Map block and lot number.
 - (4) The purpose or reason for moving the soil.
 - (5) The kind and quantity, in cubic yards, of soil to be removed.
 - (6) The place to which the soil is to be moved.
 - (7) The proposed date of completion of the work.
 - (8) The name and address of the person having direct charge or supervision over the soil removal operation.
 - (9) Such other pertinent data as the Borough Council may require.
- C. Topographic map required for major soil permit. The application for a major soil permit shall be accompanied by a topographical map, in triplicate, of the lands in question. Such map shall be prepared and certified by a licensed professional engineer or a licensed land

surveyor. The topographic map shall be prepared at a scale of not more than 100 feet to the inch and shall show the following:

- (1) The present grades on a one-hundred-foot grid layout.
- (2) The proposed finished grades.
- (3) The quantity, in cubic yards, of the soil to be moved.
- (4) The grades of all streets and lots within 100 feet of the property in question.
- (5) Proposed slopes and lateral supports.
- (6) Present and proposed surface water drainage.
- (7) Such other pertinent data as the Borough may require.

§ 143-105. Fees.

Fees in connection with soil permits are established in § 143-44.

§ 143-106. Review of application.

Upon receipt of an application for a soil permit, the Borough Clerk shall forthwith send a copy of same to both the municipal agency and Borough Engineer, who shall review the application and submit their report and recommendations to the Borough Council within 30 days of the date of application.

§ 143-107. Public hearing; notice.

- A. The Mayor and Council shall grant or deny the application within 45 days after receipt of the reports and recommendations of the municipal agency and Borough Engineer. On an application for a major soil permit, the Mayor and Council shall schedule a public hearing and shall notify the applicant of the date of such hearing. The applicant shall give all property owners within 200 feet of the extreme limits of the property, as their names appear on the Borough tax records, at least 10 days written notice of the hearing on the application. The notice shall be given in person or by registered mail and shall state the time and place of the hearing, as fixed by the Borough Council; a brief description of the property; and that a copy of the application and map has been filed with the Borough Clerk for public inspection. The applicant shall also cause notice of the hearing to be published in the official newspaper at least 10 days prior to the hearing.
- B. At the hearing, the applicant shall present to the Borough Council the following:
 - (1) Certification, in the form of an affidavit, signed and sworn by the applicant, affirming that he has notified all property owners, as required in Subsection A.
 - (2) Proof of publication of the newspaper notice required in Subsection A.

§ 143-108. Standards for review of application.

In considering and reviewing applications for soil permits, the municipal agency, Engineer and Borough Council shall be guided by the general purpose of municipal planning and shall take into consideration the following factors:

- A. Soil erosion by water and wind.
- B. Surface water drainage (no sharp declivities to be formed).
- C. Soil fertility.
- D. Public health and safety.
- E. Lateral support slopes and grades of abutting streets and land.
- F. Land values and uses.
- G. Such other factors as may bear upon or relate to the coordinated, adjusted and harmonious physical development of the Borough.

§ 143-109. Performance bond.

Prior to the issuance of a major soil permit, the applicant shall have posted with the Borough a performance bond conditioned upon full compliance with all the terms and conditions of approval, including the provisions of this Article. The amount of such bond shall be fixed by the Borough Council and shall be in the form of cash or surety-bond in a form and with surety acceptable to the Borough Attorney. The performance bond shall not be canceled or released until all conditions set forth in the permit have been met.

§ 143-110. Restrictions on soil removal; exception to permit requirements.

- A. The soil removal operations shall be so conducted that there shall be no sharp declivities, pits or depressions, and in such manner that the area shall be properly leveled off, cleared of debris and graded to conform to the finished contour lines and grades as approved by the Borough Council.
- B. The developer or excavator shall not take away the top layer of arable soil for a depth of four inches, but such top layer of soil shall be set aside on the premises and shall be respread over the premises when the rest of the soil has been removed, in conformity with the contour lines approved by the Borough Council.
- C. Anything herein to the contrary notwithstanding, no permit shall be required in connection with the removal of excess soil resulting from the construction or alteration of a building, structure or off-street loading or parking areas on such premises and new streets, roadways or driveways and excavation or grading incidental thereto.

§ 143-111. Streets used for soil transportation.

In connection with the transportation of soil, whether for purposes of removal or for purposes of filling, only such streets of the Borough shall be used for transportation as may be designated for that purpose by the Borough Council. The applicant shall cause such streets to be kept free from dirt resulting from the transportation of soil, whether or purposes of removal or purposes of filling.

§ 143-112. Effect on zoning regulations.

Nothing contained herein shall be deemed to modify or repeal any of the provisions of the zoning regulations of the Borough. In the event of any inconsistency between the provisions of this Article and the provisions of the zoning regulations, such inconsistency shall be resolved in favor of the enforcement of the provisions of the zoning regulations.

§ 143-113. Commercial soil removal operations.

As to commercial soil removal operations which existed prior to October 20, 1964, the provisions of this Article shall not normally be applicable. However, in cases where an excavation, pit or embankment on any such exempt property is deemed to constitute a safety hazard to persons or property, the Council shall cause a notice to such effect to be served upon the owner or tenant. Such notice shall fix a time and place when a hearing will be held, and, if as the result of such hearing it is determined that remedial or preventive action is necessary for the protection of the health, safety or welfare of the public or adjacent property owners, the Council may require reasonable compliance with such provisions of this Article as may be appropriate.

§ 143-114. Enforcement.

The Borough Engineer is hereby designated as the officer whose duty is shall be to enforce the provisions of this Article. He shall from time to time, upon this own initiative, and whenever directed by the Borough Council, inspect the premises for which permits have been granted to ensure compliance with the terms of the permit and of this Article.

**Part 5
Zoning Regulations**

ARTICLE XVI
Zone Districts and Enforcement

§ 143-115. Zone districts.

For the purpose of this chapter, the Borough of Butler is hereby subdivided into 15 zone districts known as:

R-1	Residence District
R-2	Residence District
R-3	Residence District
R-4	Residence District
R-5	Residence District
R-6	Residence District
R-7	Residence District
R-8	Townhouse/Apartment Residential District
SC	Senior Citizen Housing District
CBD	Central Business District
HC Zone	Highway Commercial District
LI	Light Industrial District
LI/CBD	Limited Industrial/Central Business District

§ 143-116. Zoning Map.

The map entitled, "Zoning Map, Borough of Butler, New Jersey"; dated November, 2005, which accompanies this Article is hereby declared to be part hereof. The zone boundary lines, shown on the Zoning Map, are intended to coincide with property lines, the center lines of street, easements, railroads or drainage courses as they existed at the time of adoption of this chapter, or they are designated on the zoning map by figures or dimensions. In case of uncertainty as to the location of any zone boundary line, the determination thereof shall be with the Board of Adjustment.

§ 143-117. Schedule of Permitted Uses.

The schedule entitled, "Schedule "C", Permitted Uses, Borough of Butler, New Jersey", which accompanies this chapter is hereby declared to be part thereof (See Appendix).

§ 143-118. Schedule of Zoning Requirements.

The schedule entitled, "Schedule "D", Zoning Requirements, Borough of Butler, New Jersey, which accompanies this chapter, is hereby declared to be part hereof (See Appendix).

§ 143-119. Purposes.

The purposes of the various zone districts enumerated in § 143-108 above are as follows:

- A. R-1 Residence District. To provide an area for low-density single-family detached units which are compatible with the physical development capacity of the land and consistent with development patters within the zone.
- B. R-2 Residence District. To provide an area for low-density single-family detached units which are compatible with the physical capacity of the land and consistent with

- development patterns within the zone. Optional townhouse use, as in the R-2 District, is also permitted.
- C. R-3 Residence District. To provide an area for medium-density single-family detached housing which is compatible with existing development patterns in the zone and the physical capacity of the land to accept development. Optional townhouse use, is also permitted where established standards can be met.
 - D. R-4 Residence District. To provide an area for high-density single-family detached homes. This District also serves as a transition zone between the medium- and large-lot single-family zones and the high-density residential-commercial area of the Central Business District. This will serve to strengthen established development patterns in these areas.
 - E. R-5 Residence District. To further broaden the variety of housing available in the community by increasing densities and the types of units permitted. Provisions are made for single-family detached units and two-family units. This high-density residential zone surrounds the central business district and will also provide the economic stimulus necessary for a successful downtown.
 - F. R-6 Residence District. To provide an area for high-density multiple-family garden apartment units. This are is located adjacent to highway commercial and light industrial districts, thereby providing appropriate ready access to shopping facilities and certain employment opportunities.
 - G. R-7 Residence District. To provide an area for high-density multiple-family units. This is located adjacent to the highway commercial district, thereby providing appropriate ready access to shopping facilities and certain employment opportunities. **[Amended 7-16-2019 by Ord. No. 2019-12]**
 - H. R-8 Townhouse/Apartment Residential District. To provide for townhouse and apartment development. **[Amended 7-16-2019 by Ord. No. 2019-12]**
 - I. SC Senior Citizen Housing District. To provide affordable housing opportunities for citizens of the Borough who have reached an age and limited income status that limits their ability to maintain comfortable and convenient living standards.
 - J. CBD Central Business District. The Butler central business district has traditionally been recognized as a regional center developed around industrial and related commercial uses. The purpose of the CBD District is to strengthen the position of the downtown as a vital center for community activity in terms of providing retail goods and services, a governmental center, appropriate industrial uses, and an overall focal point for community social awareness. Foremost, the central business district concept represents a concentrated, pedestrian-oriented commercial district.

- K. HC Zone - Highway Commercial Districts. The Highway Commercial Districts are designed to permit retail uses and commercial services which are appropriate to a high-traffic artery, such as Route 23, and which complement other commercial areas while being sensitive to the needs of the Borough and the impacts on surrounding areas, especially on residential neighborhoods. The design standards for these districts are intended to permit individual buildings on individual lots, in an effort to promote safe and efficient development in the difficult-to-control strip-type zone. The site planning and building design occurring in these districts must be completed in a manner compatible with an overall development plan which coordinates traffic flow, parking needs, building orientation, landscaping, drainage and similar factors related to development, especially when implementation occurs cumulatively over a period of years. Ordinance provisions relating to the HC Zone District is identical except that additional conditional uses, as specified in Schedule C are permitted. **[Amended 2-22-2016 by Ord. No. 2016-1]**
- L. LI Light Industrial District. Locational advantages such as access to major transportation links, sufficient land area to allow attractive site planning and adequate buffers, accessibility to infrastructural improvements and the proximity to a substantial labor supply, determine a community's potential for industrial development. Considering these constraints, the proposed industrial districts attempt to maximize the development location factors which Butler has in its favor, namely the Route 23 travel corridor and sites with infrastructure improvements. Additionally, these districts provide acreage sufficient to allow maximum attention to proper site design, including the location of structures and parking, proper ingress and egress, architectural design, proper buffer zones and screening and creative landscaping. The design standards for the district will assure compatibility of any proposal with the natural foliage, soils, contours, drainage patterns and the need to avoid visual intrusion and performance nuisances upon adjacent residential districts. The objective of the LI Light Industrial District is to provide for an expanded tax and employment base which is compatible with and enhances surrounding uses.
- M. LI/CBD Light Industrial/Central Business District. The purpose of the LI/CBD Light Industrial/Central Business District is to encourage a full mix of commercial/light industrial land uses to enable the area so designated to redevelop in flexible but controlled fashion. **[Amended 7-16-2019 by Ord. No. 2019-12]**
- N. RD Redevelopment. The purpose is to provide for a mixed-use commercial, retail and residential development in an area of downtown Butler Borough which has been determined to be in need of redevelopment. **[Amended 7-16-2019 by Ord. No. 2019-12]**

ARTICLE XVII
Special District Regulations

§ 143-120. Townhouse regulations in the R-2 and R-3 Districts.

- A. Area and bulk regulations.
- (1) Minimum lot area: five acres.
 - (2) Minimum lot frontage: 150 feet.
 - (3) Minimum setbacks: 50 feet from public streets, 75 feet from property lines.
 - (4) Maximum density: six dwelling units per acre.

- (5) Maximum building coverage, including accessory buildings: 20% of lot area.
- (6) Maximum height of building: 2 1/2 stories and 35 feet.
- (7) Maximum number of dwelling units per building: Townhouses-8; Apartments-16; Townhouses and Apartments-12. Only low and moderate-income units may be apartments.
- (8) Unit distribution: No dwelling unit shall contain more than three bedrooms. For purposes of this Ordinance, a bedroom is any habitable room other than a living room, dining room, dinette or kitchen.
- (9) Maximum length of principal building: 200 feet.
- (10) Minimum distance between buildings: 25 feet; provided, however, that said distance shall be increased to 50 feet if a driveway is located between buildings, overlap one another, the minimum average distance between buildings shall be the distance established above plus 1/2 foot for each foot of building wall overlap up to a maximum of 75 feet.
- (11) Location of dwelling units: No dwelling unit shall be located in a basement or in a cellar.

B. Garage and accessory building requirements.

- (1) Accessory buildings shall meet the street and property line setbacks of principal buildings.
- (2) An accessory building shall be located at least 25 feet from a principal building at least 15 feet from another accessory building.
- (3) Swimming pools, tennis courts and other surfaced recreation facilities shall be at least 100 feet from a residential property line and at least 75 feet from any other property line.
- (4) The maximum height of any accessory building shall be 16 feet. Clubhouses shall be governed by height limitations for principal buildings.
- (5) No accessory building shall have a ground floor area exceeding 2,500 square feet.
- (6) Each garage space shall have minimum dimensions of 12 feet in width and 22 feet in length.

C. Open space and recreation. Exclusive of internal roadways and parking areas, there shall be provided a minimum of 30% of the entire tract for common open space and facilities.

D. General requirements. Townhouse developments in the R-7 District shall be subject to all applicable requirements of § 143-94.

§ 143-121. Apartment regulations in the R-6 Residence District and townhouse regulation in the R-7 Residence District. [Amended 7-16-2019 by Ord. No. 2019-12]

A. Area and bulk regulations.

- (1) Minimum lot area: five acres.
 - (a) If a lot of less than five acres within this zone adjoins and is contiguous to an apartment development for which a building permit has been issued, and upon which actual construction has begun, the area of less than five acres may be approved for garden apartment development.
 - (b) If a zone boundary line passes through any lot of five acres or more with the result that the area available for apartment construction is less than five acres, such area of less than five acres may be approved for apartment development; provided, however, that all other regulations pertaining to the erection or construction of such apartments shall be applied to within the area permitting such construction, except that the calculation of the number of units to be constructed shall be based upon such acreage available for such construction.
- (2) Minimum lot frontage: 150 feet.
- (3) Minimum setbacks: 50 feet from public streets, 75 feet from property line.
- (4) Maximum density: 12 dwelling units per acre.
- (5) Maximum building coverage, including accessory building: 20% of lot area.
- (6) Maximum height of building: 2 1/2 stories and 35 feet.
- (7) Maximum number of dwelling units per building: 16
- (8) Unit distribution. No dwelling unit shall contain more than two bedrooms and not more than 20% of the units shall contain two bedrooms. For purposes of this Ordinance, a bedroom is any habitable room other than a living room, dining room, dinette or kitchen.
- (9) Maximum length of principal building: 200 feet.
- (10) Minimum distance between buildings: 25 feet; provided, however, that said distance shall be increased to 50 feet if a driveway is located between buildings. In addition, if buildings overlap one another, the minimum average distance between buildings shall be the distance established above plus 1/2 foot for each foot of building wall overlap up to a maximum of 75 feet.
- (11) Minimum floor area. The minimum floor area of a building shall be determined on the basis of the number of bedrooms in accordance with the schedule below:

Unit Type	Minimum Floor Area (square feet)
0-bedroom (studio) unit	550
1-bedroom unit	700
2-bedroom unit	900
3-bedroom unit	1,000

- (12) Location of dwelling units. No dwelling unit shall be located in a basement or in a cellar.

B. Garage and accessory building requirements.

- (1) Accessory buildings shall meet the street and property line setbacks of principal buildings.
- (2) An accessory building shall be located at least 25 feet from a principal building at least 15 feet from another accessory building.
- (3) Swimming pools, tennis courts and other surfaced recreation facilities shall be at least 100 feet from a residential property line and at least 75 feet from any other property line.
- (4) Maximum density: R-6: 12 dwelling units per acre. R-7: six dwelling units per acre. **[Amended 7-16-2019 by Ord. No. 2019-12]**
- (5) No accessory building shall have a ground floor area exceeding 2,500 square feet.
- (6) Each garage space shall have minimum dimensions of 12 feet in width and 22 feet in length.

C. Open space and recreation. Exclusive of internal roadways and parking areas, there shall be provided a minimum of 30% of the entire tract for common open space facilities.

D. General requirements. Apartment developments in the R-6 District shall be subject to all applicable requirements of § 143-94.

§ 143-122. Townhouse regulations in the R-7 Residence District. REPEALED. [Amended 7-16-2019 by Ord. No. 2019-12]

§ 143-123. Regulations in the SC Senior Citizen Housing District.

The following regulations apply in the SC District.

- A. Area and density requirements.
 - (1) Lot area. There shall be a minimum lot area of 80,000 square feet.
 - (2) Density. There shall be a minimum lot area of 1,000 square feet set aside for each dwelling unit.
 - (3) Building coverage. The total ground floor area of all structures shall not exceed 35% of the total lot area.
- B. Setback requirement. No building shall be located within 15 feet of a public street or within 15 feet of a property line.
- C. Distance between buildings. There shall be a minimum distance between dwelling structures of 50 feet, except that where an end wall of one dwelling structure faces an end wall of another dwelling structure, there shall be a minimum distance of 25 feet. This distance shall be increased to at least 35 feet if a driveway is located between structures.
- D. Building requirements.
 - (1) Height. No building shall exceed a height of five stories.
 - (2) Building plans and elevations shall show a variation in exterior design to be achieved by types of roof, heights or eaves and peaks, building materials and architectural treatment of the building facade.
 - (3) Interior walls, separating dwelling units shall be fire walls, constructed in accordance with provisions of the Borough of Butler Building Code.
- E. Dwelling unit requirements.
 - (1) Each dwelling unit shall contain, as a minimum, living area as defined by Section 202 Minimum Federal Housing Standards.
 - (2) Minimum floor area. Each dwelling unit shall have a minimum floor area, complying with Section 202 Minimum Federal Housing Standards.
 - (3) No room within the dwelling unit intended for human habitation shall be located in a cellar or attic.
 - (4) Each dwelling unit shall have at least one window in each exposure.

- (5) Floor and ceilings and partitions between dwelling units shall be constructed so as to have a minimum airborne sound transmission loss classification of 50 decibels. The Code Official shall ascertain that reasonable measures are taken in floor and ceiling construction to avoid disturbing levels of impact sound.

F. Accessory buildings.

- (1) Setbacks. Accessory buildings shall meet the street and property line setbacks of the principal building. Clubhouses, swimming pools and recreational facilities shall be at least 10 feet from a principal building or property line.
- (2) Height. The maximum height of an accessory building shall be 16 feet.
- (3) Design. Architectural design and materials used in the construction of accessory buildings shall conform to those used in the construction of principal buildings.
- (4) Garages. Garages may be built into the structure or separately constructed as hereinafter provided. Each garage space shall be at least 12 feet in width and 22 feet in depth. Each group of attached garages shall have a joint capacity of not more than 10 automobiles, and there shall be a minimum distance of 10 feet between structures.

**§ 143-123.1. Apartments in the R-8 Townhouse/Apartment District. REPEALED
[Amended 7-16-2019 by Ord. No. 2019-12]**

§ 143-123.2. Optional townhouse and apartment development in the R-8 Townhouse/Apartment District. REPEALED [Amended 7-16-2019 by Ord. No. 2019-12]

§ 143-123.3. Locations of vehicular access in HC Zone Highway Commercial and R-8 Townhouse/Apartment Districts.

In the HC Zone and R-8 Districts all vehicular access shall be located on State Highway Route 23, unless the opposite side of the abutting street is located in a nonresidential district, unless a controlled, emergency access has been approved by the Planning Board in connection with site plan approval. Within the R-8 district, additional vehicular egress only shall be permitted to Maple Lake Road. Within the HC Zone district, additional vehicular ingress and egress shall be permitted to Morse Avenue. **[Amended 2-22-2016 by Ord. No. 2016-1]**

§ 143-123.4. Main Street Redevelopment Area.

The purpose of the Main Street Redevelopment Zone is to provide for a mixed-use commercial, retail and residential development in an area of downtown Butler Borough which has been determined to be in need of re-development.

A. Principal permitted uses.

- (1) Neighborhood retail uses, consisting of such uses as: **[Amended 4-17-2007 by Ord. No. 2007-9; 1-22-2008 by Ord. No. 2008-1]**
 - (a) Drugstore/pharmacy.
 - (b) Personal service establishments.
 - (c) Professional and business offices.

- (d) Bank.
 - (e) Restaurants.
 - (f) Hardware store.
 - (g) Convenience store.
 - (h) Ice cream/flavored ice shop with or without walk-up window.
 - (i) Drive-through windows in accordance with the provisions of § 143-172 except § 143-172D shall read "No entrance or exit shall be located within 10 feet of an adjoining property."
 - (j) Other comparable uses appropriate to a traditional downtown retail center.
- (2) Medical and dental offices.
 - (3) Child care center.
 - (4) Government and public utility buildings.
 - (5) Community buildings, clubs and activities of quasi-public, social or fraternal character, including Churches and Synagogues.
 - (7) Residential.

- (8) Mixed uses on a single lot are to be permitted. Mixed uses within a single structure along Main Street are to be encouraged (i.e. Residential uses over first floor mixed retail/office use).

B. Permitted accessory uses.

- (1) Uses customarily incidental to the principal, permitted uses including, but not limited to trash enclosures, recycling areas, storage sheds, detached garages and maintenance/leasing office.
- (2) Private and public parking, including parking garages.
- (3) Signs.
- (4) Awnings.
- (5) Balconies.
- (6) Fencing.

C. Supplemental regulations for principal permitted uses.

- (1) Minimum tract size. Entire tract area of at least five acres which may be subdivided into lots having at least 1/3 acre in area. As a planned development, the tract shall include the entire redevelopment zone as a single entity; however, the project may be phased or subdivided after approval if done in accordance with the development plan.
- (2) Coverage for the entire tract shall be limited to 90% provided that the coverage on any individual lot may exceed 90% in the event that the entire tract is subdivided in accordance with sections C(1) above.
- (3) Maximum building height (excluding mechanical penthouse which shall be limited to 10 feet above the roofline) is 3 1/2 stories and/or 55 feet.
- (4) Minimum tract front yard: zero feet from the tract line to the building.
- (5) Minimum tract side yard: 10 feet from the tract line to the nearest building.
- (6) Minimum tract rear yard: 10 feet from tract line to the nearest building.
- (7) Minimum building setback to Pequannock River: 50 feet excluding existing structures.
- (8) Off-street parking lots and loading areas, together with their access aisles, driveways and fire lanes shall not occupy more than 60% of the tract area.
- (9) Where off-street parking is provided in the form of angled (including 90°) parking accessed by any aisle, the aisle, the aisle shall not be less than 22 feet in width where traffic movement is two-way.
- (10) Parking stall size shall be nine feet by 18 feet.

- (11) Parking shall be permitted in the front yard setback, but not closer than five feet from a structure, with the exception of driveway spaces.
- (12) Parking shall be permitted a minimum of five feet from property lines.
- (13) Parking spaces located in residential driveways and in private garages shall be counted as one space each.
- (14) Angular parking along Main Street is permitted as a key element of the revitalization of the Main Street corridor.
- (15) Parking requirements for residential elements of the Development Plan shall be in accordance with the Residential Site Improvement Standards (RSIS) requirements for each use. Commercial parking shall be provided at a rate of one parking space per 250 square feet of gross nonresidential use. Notwithstanding the foregoing parking requirements, shared parking between the commercial and residential uses shall be encouraged provided that such shared parking shall not result in greater than a 30% reduction in the project's overall required parking count.
- (16) Parking in excess of the base requirements as outlined in #15 above shall be provided as may be readily accommodated within the Development Plan to the benefit of the redevelopment effort by enhancing business viability through improved convenience and parking availability.
- (17) At least one off street loading space shall be provided.
- (18) Access shall be set back from the street line of any intersection street at least 50 feet.

D. Supplemental regulations for residential housing.

- (1) The following dwelling unit types are permitted:
 - (a) Multifamily dwellings.
 - (b) Apartments.
 - (c) Townhouses.
 - (d) Mixed use residential/retail buildings.
- (2) Common open space if there is multiple ownership. Maintenance of common open space shall be regulated by a management association.
- (3) Maximum gross density: 12 dwelling units per acre.
- (4) Site and building design.
 - (a) The site plan shall be in substantial general conformance with the approved Development Plan and as specified herein.

E. Nonresidential parking access.

- (1) Parking location. On-street angled parking shall be allowed for retail and commercial uses.
- (2) All off-street parking shall be screened from public roadways by landscaping, to the extent feasible and reasonable.
- (3) One parking space, exclusive of any access drive or aisles, shall be provided for every 250 square feet of gross floor area, or any fraction thereof, of commercial retail or office uses. Shared parking shall be allowed as approved by the Planning Board.

F. Signs.

- (1) Signage shall comply with Article XXI, Sections 143-174 and 143-175 with the following exceptions:
 - (a) The minimum setback from the property line shall be zero feet and a freestanding sign shall have a minimum of three feet vertical clearance between the average ground level and the bottom edge of said sign, so long as the sign does not obstruct the visibility of the driver.
 - (b) Project identification signs may be erected or located on, within or over any public right-of-way directly associated with the tract subject to the review and approval of the Planning Board.

G. Buffering and landscaping.

- (1) A minimum landscaping buffer, 10 feet wide, wherever possible, shall be provided along all property lines, including public streets, except for frontage along the Pequannock River, where a minimum 25 feet wide buffer within the setback shall be provided.
- (2) The river walk buffer shall consist of a mix of walkways, sitting areas, and plantings and is not intended to be a visual "buffer" to prevent visual access to the river from the on site uses.

H. Definitions.

- (1) A Development Plan shall mean a master site plan for review and approval by the Planning Board showing the general location and distribution of the uses for the tract, their interrelationship, the potential subdivision into lots and the phasing of the development. The Development Plan may be amended from time to time with approvals from the parties.

**§143-123.5 Cannabis Retail and Medical Cannabis Dispensary Conditional Use in HC Zone.
[Amended 7-20-2021 by Ord. No. 2021-16]**

The operation of Cannabis Retail Establishments as defined by P.L.2021, c. 16, and Medical Cannabis Dispensaries shall be a conditional use in the HC Zone—Highway Commercial District as provided in Article XX of this Chapter.”

ARTICLE XVIII
General Provisions

§ 143-124. Applicability of regulations.

No land or premises shall be used and no building or structure shall be erected, raised, moved, extended, enlarged, altered or used for any purpose other than a purpose permitted herein, for the zone district in which it is located, and all construction shall be in conformity with the regulations provided for the zone district in which such building or premises is located. Each of the sections and provisions of this Article shall apply to all zone districts unless otherwise stated.

§ 143-125. Existing platted lots.

Any lot or plot as recorded at the time of passage of this Chapter that fails to comply with the minimum requirements of this Part 5 (Zoning Regulations) of this Chapter 143 may be used for any use not otherwise prohibited in such district in which it lies; provided all of the following requirements are complied with.

- A. Said lot is in single ownership as defined in this § 143-5.
- B. All yard requirements are complied with except that where the average lot width is less than its zone district requirements the side yards may be reduced by the percentage that the lot width bears to the zone district requirements; provided, however, no side yard shall be less than 1/2 the required side yard.

§ 143-126. Subdivision of lot.

When a new lot or lots are formed from part of a parcel of land, the separation must be effected in such a manner as not to impair any of the provisions of this Part 5 (Zoning Regulations) of this Chapter 143. Subdivision shall be effected in accordance with Part 3 (Development Review) of this Chapter 143.

§ 143-127. Required area or space.

No lot, yard, parking area or other space shall be so reduced in area or dimension as to make said area or dimension less than the minimum required under this Part. If already less than the minimum required under this Part, said area or dimension shall not be further reduced.

§ 143-128. Prohibited use. [Amended 7-20-2021 by Ord. No. 2021-16]

- A. Where a use is not specifically permitted in a zone district, it is prohibited.
- B. No dwelling unit shall be located in a basement or cellar.
- C. Except as otherwise provided in Articles XVII and XX of this Chapter, the operation of all classes of cannabis establishments as defined by P.L.2021, c. 16, including but not limited to, cannabis retailers, cultivators, manufactures, distributors, wholesalers, testing facilities, or delivery services, are expressly prohibited uses within the jurisdictional boundaries of the Borough of Butler.”

§ 143-129. Requirements to be met on lot and within zone district.

- A. Unless otherwise provided herein, all yards, open space, vehicular access and off-street parking must be contained on the lot and within the zone district in which the use is located.
- B. Required off-street parking and loading requirements as regulated in § 143-86 shall be provided on-site.

§ 143-130. Yards.

Every lot must provide front, rear and side yards as required by its zone district. All front yards must face upon a dedicated public street or a private street approved by the Planning Board. On streets with rights-of-way of less than 50 feet in width, the required front yard shall be increased by 1/2 the difference between the width of the right-of-way and 50 feet. If a right-of-way greater than 50 feet is shown on an adopted Master Plan or official map, the required front yard shall be increased by 1/2 the difference between the right-of-way and said greater width.

§ 143-131. Front yard setback adjustment. [Amended 7-16-2019 by Ord. No. 2019-12]

- A. Minimum front yard setbacks, as regulated and provided in Schedule “D”, may be modified so that the minimum setback shall be established by utilizing one (1) existing principal structure on either side of the subject site, on the same side of the street. The front yard setback adjustment for corner lots shall be that setback associated with the main front entrance to that structure.
- B. Existing conforming one and two-family uses may extend to the 35’ height limitation, the front yard setback notwithstanding. The new structure must conform to the minimum side and rear setbacks, and may not exceed the existing front yard setback of the dwelling. Section 143-135B, “Extensions into yards,” shall not be applicable to this provision.

§ 143-132. Location of building entrance.

The main entrance to a building may be located in any building wall except in the wall of a building which faces a rear yard.

§ 143-133. Corner lot.

Where a lot is bounded by more than one street, the front yard setback requirements from each abutting street shall be met. On a corner lot, either street frontage which meets the minimum frontage required for the zone may be considered the lot frontage. The yard opposite the front of the lot shall be considered the rear yard for purposes of meeting the minimum rear yard requirement. If a lot becomes a corner lot either (1) as the result of the dedication of a street right-of-way in connection with approval for the development or adjacent land or (2) as the result of the establishment or acquisition of a public street right-of-way by any governmental entity, whenever such dedication, establishment or acquisition occurred subsequent to the erection of a principal structure on such lot, the minimum setback requirement shall be the same as the setback of the principal building, but in no event less than the minimum required side yard for an interior lot. On a corner lot, the provisions of § 143-73R regarding the erection and maintenance of structures and plantings shall apply to any area that would be subject to the established of a sight triangle easement. The provisions of Chapter 223 of the Borough Code concerning vegetation shall also apply.

§ 143-134. Easements excluded.

Easements for natural watercourses shall not be deemed part of any lot for the purpose of complying with area, frontage and yard requirements.

§ 143-135. Exceptions to requirements.

- A. Height exceptions. With the exception of residential uses as permitted by this chapter, penthouses or roof structures for the housing of stairways, tanks, ventilating fans, air-condition equipment or similar equipment required to operate and maintain the building, skylights, spires, cupolas, flagpoles, chimneys or similar structures may be erected above the height limits prescribed by this chapter but in no case more than 25% more than the maximum height permitted for the use in the district.
- B. Extensions into yards. No part of any building shall extend more than one foot beyond the foundation into any required yard except the following which shall not extend more than two feet beyond the foundation into any required yard:
 - (1) Roof overhangs (drip line).
 - (2) Bay or bow windows.
 - (3) Steps, except that front steps shall not extend more than five feet into the required front yard. Such steps may be covered with a roof.
 - (4) Chimneys.

§ 143-135.1. Decks and patios.

- A. Within all one and two family residential zones, decks and platforms, whether freestanding or attached to a building, when located in a rear or side yard, shall meet the following yard setback requirements as follows:
 - (1) The setbacks for decks and platforms may be reduced by 25% from the requirements in Schedule "D".
- B. Within all multifamily residential and nonresidential zones, decks and platforms, whether freestanding or attached to a building, shall meet the side and rear yard setback requirements for the particular zone.
- C. Decks and platforms, whether freestanding or attached to a building are prohibited within the front yard and the side yards.
- D. Porches, as defined herein are permitted within the front yard but must meet the front yard setback requirements for principal buildings in that zone provided however, they are attached to principal building by a common wall.

§ 143-136. Principal building.

Only one principal building may be erected on a lot except for related buildings forming one principal use in the same ownership and limited to the following:

- A. Public or institutional building complexes.
- B. Research, industrial, manufacturing, office or retail shopping complexes.
- C. Multifamily dwelling complexes.
- D. Unless otherwise regulated in this Part, no principal building shall be located closer to another building than the height of the taller building.

§ 143-137. Accessory building.

Except as otherwise provided in this Article, buildings which are accessory to a principal use or building are permitted in all zones as follows:

- A. Attachment to principal buildings. Any accessory building attached to a principal building shall be considered part of the principal building, and the total structure shall adhere to the yard requirements for the principal building regardless of the technique of connecting the principal and accessory buildings.
- B. Construction prior to principal building. No building permit shall be issued for construction of any accessory building prior to the issuance of a building permit for the construction of the main building does not precede or coincide with the construction of the accessory building, the Building Inspector shall revoke the building permit for the accessory building until construction of the main building has proceeded substantially toward completion.
- C. Distance between adjacent buildings. The minimum distance between an accessory building and any other building(s) on the same lot shall be as prescribed in Schedule D.
- D. Height. The height of accessory buildings shall be as prescribed in Schedule D.
- E. Location. An accessory building may be erected in side and rear yard areas only and shall be set back from side and rear lot lines as prescribed in the individual district regulations, except that if erected on a corner lot, the accessory building shall be set back from the side street to comply with the setback line applying to the principal building for that side street.
- F. A maximum of two accessory structures and two private storage sheds as regulated in § 143-139 shall be permitted. No more than one detached garage shall be permitted per residential lot. Playsets, gym and swing sets and similar structures shall be included in the number of allowable accessory structures. Swimming pools are not to be included in the total number of allowable accessory structures. The total of all accessory structures shall not exceed the lot coverage as provided for in Schedule "D".

§ 143-138. Principal uses in nonresidential districts.

In the nonresidential districts a principal building may contain more than one use provided that the total building coverage of the combined uses does not exceed the maximum building coverage specified for the zone district and further, that each use occupies a minimum gross floor area of 750 square feet.

§ 143-139. Private storage sheds.

- A. No private residential storage shed shall be constructed or installed on any lot unless the lot contains a residence building. Storage sheds shall be located in rear yard areas only and shall meet the setback distances for accessory buildings as specified for each particular zoning district.

- B. Storage sheds shall meet the maximum lot coverage for accessory buildings as specified for each particular zoning district in Schedule D and no individual storage shed shall exceed an area of 200 square feet. Any structure used as a storage shed greater than 200 square feet shall require a permanent foundation and require site plan approval by the Board. Any such storage shed shall have a sloping roof and shall be designed so as to be compatible with the residential surroundings.
- C. Storage sheds shall be firmly anchored to the ground to insure stability. All sheds having an area of 100 square feet or more shall be placed on a concrete slab approved by the Construction Department.
- D. No residential uses shall contain more than two storage sheds on any one lot.

§ 143-140. Swimming pools, hot tubs and SPAS.

- A. No private residential swimming pool, shall be constructed or installed on any lot unless the lot contains a residence building. Pools shall be located in rear yard areas only and shall in no case be located closer than 10 feet to any lot line.
- B. A swimming pool shall occupy no more than 50% of the available rear yard area in which it is located.
- C. A private residential swimming pool area must be surrounded by a suitable fence with a self-latching, self-closing, opening-out gate at least four feet, but no more than six feet, in height, and said fence shall not require a minimum setback from any lot line.
- D. No private residential hot tub or spa, either fixed or portable, shall be constructed or installed on any lot unless the lot contains a residential dwelling. Exterior hot tubs shall be permitted within the rear yard only and shall not be located closer than 10 feet to the property line.

§ 143-141. Fences and walls.

On any lot in any district, no wall or fence shall be erected or altered so that said wall or fence shall be over four feet in height in front yard areas except where otherwise restricted in a sight triangle easement pursuant to § 143-73R, and six feet in height in side and rear yard areas, except that:

- A. Dog runs shall be located in rear yard areas only and shall be set back from any lot line at least 10 feet.
- B. A private residential swimming pool area must be surrounded by a fence at least four feet, but no more than six feet, in height. Swimming pool areas shall be located in rear yard areas only and said fence shall not require a minimum setback from any lot line.
- C. A tennis court area, located in rear yard areas only, may be surrounded by a fence a minimum of 15 feet in height, said fence to be set back from any lot line the distances required for accessory buildings in the individual zoning districts.

- D. Where fences are located within 10 feet of a driveway or street intersection they shall not exceed three feet for a distance of 15 feet beginning from the street property line.
- E. Any fence shall have the front, or "finished" side of the fence facing the adjoining property line and/or street right-of-way. All structural supporting mechanisms of the fence structure shall face the interior of the subject lot.
- F. In any residential or mixed-use district, fences within a required front yard shall consist of no more than 50% solid material and shall be equally distributed throughout the entire length of the fence.
- G. All solid and semi-solid fences shall be of a substantial wood, composite, vinyl, iron or aluminum construction and be structurally sound and able to withstand wind and weather. Solid and semi-solid fences shall be of stock, basket weave, picket or shadow board design. No fence shall be erected or contain barbed-wire, topped with spikes, or constructed of any material or in any manner which may create dangers to public health and safety.
- H. Chain-link fences (minimum 11 gauge) are permitted within the side and rear yards only.
- I. No fence shall be constructed of materials, or combination of materials which are likely to collapse under a person or animal of 100 pounds or less.
- J. All fences, including supporting posts or structures, must be located on the inside of the property line.
- K. Hedge rows, or similar vegetation planted for purposes of creating a full or partial barrier shall not exceed four feet in height where located within 15 of the street right-of-way, nor three feet in height where such plantings are located within a designated sight easement/triangle or within 25 feet of a street intersection.
- L. For purpose of applying height limits, multiple, staggered or tiered walls, and/or wall/fence combinations shall be considered single units unless the minimum horizontal distance between the top of any section or tier shall be 10 feet.
- M. The following fences and fencing materials are specifically prohibited:
 - (1) Barbed wire.
 - (2) Short, pointed fences less than 48 inches in height.
 - (3) Canvas.
 - (4) Cloth.
 - (5) Electrically charged.
 - (6) Poultry fences.
 - (7) Turkey wire.
 - (8) Temporary fences, such as snow fences, unless on construction sites.

(9) Expandable or collapsible fences, except during construction of a building.

N. No fence shall be multi-colored.

O. All entrances or gates shall open onto the property.

§ 143-142. Garages in residential districts.

No building permit shall hereinafter be granted for the erection of a new one- or two-family dwelling unless provision is made for the construction of a garage, connected by an adequately surfaced driveway to the adjacent street. Driveway surfacing shall be asphalt or equal for the total distance from the garage apron to the street pavement.

§ 143-143. Parking and storage of vehicles on residential lots.

- A. All vehicles must be owned or used by a resident of the premises. Only one vehicle used for commercial purposes may be parked on a property.
- B. Parking in front yards shall be in a paved driveway or in a paved area served by a driveway in accordance with § 143-133. The total paved area shall not exceed 35% of the front yard area.
- C. No truck or other vehicle with a registered gross vehicle weight exceeding 15,000 pounds, having a height measured from the ground exceeding eight feet, or having a length measured bumper-to-bumper exceeding 24 feet shall be parked on a residential lot unless stored in a completely enclosed garage at all times.
- D. All parking for motor vehicles and trailers shall be paved.
- E. All parking and storage shall be located at least five feet from a property line.
- F. Asphalt or other hard surfacing is limited to driveways, parking areas, storage areas, walkways and patios. The total of all hard surfacing shall not exceed 25% of the available lot area.
- G. Any motor vehicle parked or stored shall have a valid DMV registration except those vehicles stored in a fully enclosed garage.
- H. A total of two recreation vehicles, as defined herein may be stored or parked within a residential district provided that the following requirements are met:
 - (1) Such recreational vehicles shall be parked, stored within the side or rear yard only of the subject premises upon which the owner of said vehicle(s) reside;
 - (2) Recreational vehicles as defined herein must be kept licensed, registered and in proper repair and may not be used for living purposes, or for storage of materials other than those which are customarily used in conjunction with said vehicle.
 - (3) Commercial vehicles as defined by this chapter are prohibited from being stored within a residential district.

- (4) Storage and/or parking of recreational vehicles shall be on an asphalt paved, concrete or concrete paver surface and must meet the minimum required setbacks for accessory structure per the particular residential zone, but in no case shall it be less than 10 feet when stored or parked in the side yard.
- (5) Only one self-propelled motor home is allowed which shall not exceed a bumper-to-bumper length of 36 feet (including trailer) or a height of 10 feet measured to the top of the roof. [Added 7-16-2019 by Ord. No. 2019-12]

§ 143-143.1. Residential vehicle repair.

- A. Vehicle(s) owned by a resident of the property may do vehicle repairs.
- B. Repairs shall be limited to minor vehicle repairs only. Major vehicle repairs are strictly prohibited.
- C. Inoperable vehicles can only be stored on the driveway for 72 hours (three days). If the vehicle is not repaired by then, the inoperable vehicle shall be stored in the garage, out of public view.
- D. Vehicle repair is not allowed on the public right-of-way (street, parkways (the area between the sidewalk and the curb) or sidewalk), or the front lawn. All work must be done on the driveway or inside the garage.

§ 143-143.2. Residential vehicle sales.

- A. Vehicle sales from an occupied residential lot is permitted. Commercial auto sales and/or auto brokering is prohibited.
- B. Vehicles may be displayed on the driveway and not within the public right-of-way (street and sidewalk).
- C. No more than one vehicle may be for sale at any one time.

§ 143-144. Parking of vehicles in nonresidential districts.

Commercial vehicles, recreational vehicles, buses, ambulances, vans, limousines, trucks and construction equipment and similar vehicles shall not be permitted to be stored in any nonresidential district unless owned by the occupant of a permitted use in the zoning district and used as an integral part of the principal use of the site. Storage and/or parking of all vehicles shall be on an asphalt paved, concrete or concrete paver surface and must meet the minimum required setbacks for accessory structure per the particular zone.

§ 143-144.1. Private vehicle sales.

- A. Privately owned vehicles shall only be offered for sale from property owned, rented or leased by the owner or lessee of the vehicle.
- B. Privately owned vehicles for sale from property not owned, rented or leased by the owner or lessee shall be prohibited.

§ 143-145. Outdoor machines and equipment.

Outdoor use of machines, mechanical tools, earthmoving and yard maintenance equipment incidental but necessary to serve the principal use in any business or industrial district shall be conducted so as not to transmit undue noise or nuisance in terms of intensity or duration beyond the boundary of said district into any residential district. The Planning Board, at its discretion, during Site Plan Review may restrict the type, size and times of usage of such equipment to assure compliance with this requirement.

§ 143-146. Commercial amusements.

Pinball machines, electronic video games and similar electronic games shall be permitted as accessory uses to restaurants, taverns, delicatessens and coffee shops only.

§ 143-147. Temporary permits for certain transportable structures.

No transportable or wheel based structure or other temporary structure used as an office, storage shed or other use incidental to and in connection with a permitted construction project or building shall be placed on the site unless the Construction Official shall first have issued a temporary permit therefore, such structure shall not be located so as to be detrimental to any adjoining property and shall be removed from the site prior to the issuance of a certificate of occupancy for the permitted construction project or building.

§ 143-148. Outdoor storage.

- A. Prohibition on outdoor storage. In the HC District, no article or material shall be kept, stored or displayed outside the confines of a building unless the same is screened by special planting or a fence as approved by the Planning Board. No storage shall be located in a front or in a side yard adjoining a street. Said storage area shall meet the location requirements for accessory buildings. In the CBD, LI and CBD/LI Districts, outdoor storage is prohibited except as stated hereafter.
- C. Exception for temporary outside display in CBD Zone. The temporary outside display of nonperishable merchandise and/or promotional items by merchants during daily hours of operation shall be permitted as accessory to a permitted retail use. This outside display shall be permitted provided that the display shall be located in an area not to exceed 18 inches from the front of the building and further provided that at least 48 inches of sidewalk shall remain open and passable.

§ 143-148.1. Temporary Exterior Storage Units in Residential Districts [Added 10-16-2018 by Ord. No. 2018-15]

- A. Temporary Exterior Storage Units shall be permitted as an accessory use in the R1, R2, R3, R4 and R5 zones.
- B. It shall be unlawful for any person to park, place or suffer placement of a temporary exterior storage unit which:
 - 1. Exceeds one hundred thirty (130) square feet in size, and exceeds eight (8) feet in height;
 - 2. A maximum of one unit per property at any one time;

3. Is not secured or which is accessible to others not using the unit;
 4. Lacks vermin proof floors or otherwise permits rat and vermin harborage;
 5. Is not in a state of good repair and alignment and free from nuisance; or
 6. Is placed on an undeveloped lot.
- C. It shall be unlawful for any person to park, place or suffer placement of a temporary exterior storage unit:
1. In or upon any street, highway, roadway, designated fire lane or sidewalk in the Borough;
 2. On any lot or property in the Borough other than on concrete, asphalt or other improved surface;
 3. On any lot or property in the Borough used for commercial purposes or containing three or more dwelling units in such a way as to block or interfere with access to a garage or off-street parking areas;
 4. In a manner that interferes with sight lines for motorists on adjoining streets or the driveways of adjacent properties;
 5. In a manner that obstructs safe means of access to or from any dwelling;
 6. In a manner that creates fire or safety hazards; or
 7. That display advertising, other than the identification of the manufacturer or operator of the unit.
- D. No temporary exterior storage unit shall be used to store solid waste, construction debris, demolition debris, recyclable materials, business inventory, commercial goods, goods for property other than at the residential property where the temporary exterior storage unit is located, or any illegal or hazardous material.
- E. Permits; fees. No person shall park, place or suffer placement of a temporary exterior storage unit for more than five (5) days without first obtaining a permit from the Zoning Officer. The permit shall specify the time period, not exceeding sixty (60) days, during which time the unit may be kept on the property.
1. No more than two (2) permits, including one (1) extension, may be issued for any lot or parcel of property in any twelve (12) month period. An extension may be denied at the discretion of the Zoning Officer;
 2. The application fee for the permit shall be ten (\$10) dollars for each sixty (60) day period

§ 143-149. Performance standards.

The performance standards set forth below are for all nonresidential uses permitted in this chapter. An application for a permit shall provide documentation that the intended use will comply with the performance standards enumerated below. In the case of a structure being built where the future use is not known, a building permit may be issued with the condition that no certificate of occupancy will be issued until such time as this documentation is submitted with respect to the particular occupant. A new application and a new certificate of occupancy shall be required in the event of a change in the use of any structure.

- A. Fire and explosion hazards. All activities shall be carried on only in structures which conform to the standards of the National Board of Fire Underwriters or the Borough Building Code or Fire Ordinance, whichever is more restrictive. All operations shall be carried on, and all combustible raw materials, fuels, liquids and finished products shall be stored, in accordance with the standards of said Board of Fire Underwriters.
- B. Radioactivity. No activities shall be permitted which emit dangerous radioactivity at any point.
- C. Electricity. Electric or electronic equipment shall be shielded so that there is no interference with any radio or television reception at the lot line as the result of the operation or such equipment.
- D. Heat. No use shall produce heat perceptible beyond its lot lines. Further, no use shall be permitted which would cause the temperature to rise or fall in any body of water.
- E. Air pollution. There shall be no dissemination of smoke, fumes, gas, dust, odor or any other atmospheric pollutant beyond the boundary of the lot occupied by such use. Every industrial operation shall conform to the standards for air pollution as set forth in the New Jersey Administrative Code, Title 7, Chapter 27.
- F. There shall be no vibration which is discernible to the human sense of feeling beyond the immediate site on which such use is conducted.
- G. Noise.
 - (1) There shall be no noise defined as follows: The sound pressure level radiated continuously from a facility between the hours of 10:00 p.m. and 7:00 a.m. shall not exceed the following in any octave band of frequency:

Octave Band Center Frequency (hertz)	Sound Pressure Level¹ (decibels)
31.5	67
63	62
125	52
250	46
500	40
1,000	36
2,000	33
4,800	30
8,000	27

NOTE:

¹ According to the following formula, sound pressure level in decibels equals $20 \log P/P_2$ where P_2 equals 0.0002 dynes/square centimeter.

- (2) If the noise is not smooth and continuous and is not radiated at nighttime, one or more of the following corrections shall be added to or subtracted from each of the decibel levels given above.

Type of Operation or Character of Noise	Correction (decibels)
Daytime operation only	+5
Noise source operates less than 20% of the time	+5 ¹
Noise source operates less than 5% of the time	+10 ¹
Noise source operates less than 1% of the time	+15 ¹
Noise of impulsive character (hammering, etc.)	-5
Noise of periodic character (hum, screech, etc.)	-5

NOTE:

¹ Apply one of these corrections only.

- (3) The foregoing measurements shall be made at a point 25 feet distant from the building wherein the noise originates or at the nearest boundary line of the property, whichever is further away, and shall be measured with a sound-level meter and an octave band analyzer that conforms to the specifications published by the American Standards Association, Incorporated, New York, New York.

§ 143-150. Lot grading.

Prior to the issuance of a construction permit, including a construction permit for an in-ground swimming pool or outdoor tennis courts, and prior to the alteration of any site elevations in excess of one foot where a construction permit is not required, a lot grading plan shall be submitted to the Construction Official and approved by the Borough Engineer in accordance with § 143-75E. The requirement for a lot grading plan may be waived by the Borough Engineer if, in his opinion, the proposed installation or land disturbance will not present any risks or problems of soil erosion, drainage or other hazards.

§ 143-151. Child care centers.

Other regulations of this Ordinance to the contrary notwithstanding, child care centers for which, upon completion, a license is required from the Department of Human Services pursuant to P.L. 1983, c.492 (C.30:5 B-1 et seq.) shall be permitted in all nonresidential zones. Childcare centers are also permitted as secondary uses in conjunction with institutional

uses located in any zone district. Childcare centers shall be subject to the following requirements:

- A. Time of operation. Childcare centers, except childcare centers operated by an industry during the work hours as a service to its employees, shall be limited to daytime operations between the hours of 6:00 a.m. to 7:00 p.m.
- B. Setbacks. Any building containing a child care center shall meet the yard requirements of the zone district, provided that no such building shall be located within 35 feet of a residential property.
- C. Outdoor play areas. Outdoor play areas shall be located in side and rear yards only, shall be enclosed by a fence and shall be located at least 35 feet from a residential property line and at least 20 feet from a nonresidential property line.
- D. Parking. Off-street parking shall be provided in accordance with Schedule "B" and shall be subject to the location requirements applicable to the zone district as provided in Schedule "A". Pickup and delivery of children shall take place on the site with safe means of ingress and egress as approved by the Planning Board.
- E. Screening. All parking areas and play areas that adjoin residential properties shall be effectively screened by appropriate landscaping as approved by the Planning Board.
- F. Minimum lot size. Unless a greater area is required by the zone district in which the use is located, there shall be a minimum lot area of 12,500 square feet for the first 10 children for which the facility is licensed to accommodate at any one time plus 500 square feet for each additional child for which the facility is so licensed.
- G. Other conditions. Any childcare center shall be subject to site plan approval by the Planning Board in accordance with Part 3.

ARTICLE XIX

Nonconforming Buildings and Uses

§ 143-152. Continuance of nonconforming use or structure.

Any nonconforming use or structure existing at the time of the passage of an ordinance may be continued upon the lot or in the structure so occupied and any such structure may be restored or repaired in the event of partial destruction thereof. All nonconforming uses and structures shall be subject to the provisions of N.J.S.A. 40:44D-68 and other applicable provisions of law.

§ 143-153. Restoration of existing buildings.

Nothing in this chapter shall prevent the restoration of a nonconforming building partially destroyed by fire, explosion, act of God or act of public enemy, provided that any building partially destroyed in the manner aforesaid may be reconstructed and thereafter used only in such a manner as to not further violate the reasons for nonconformity. Any building

substantially or totally destroyed in the manner aforesaid may only be rebuilt as a conforming use.

§ 143-154. Completion of existing buildings.

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

§ 143-155. Unlawful use not authorized.

Nothing in this chapter shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of zoning regulations in effect at the time of the effective date of this chapter.

§ 143-156. Nonconforming due to reclassification.

The foregoing provisions of this section shall also apply to buildings, structures, land or uses which hereafter become nonconforming due to any reclassification of zone districts under this chapter or any subsequent change in the regulations of this chapter.

§ 143-157. Date of nonconformance.

In all cases the nature and extent of nonconforming uses shall be determined as of the date that such use became nonconforming, whether by reason of the adoption of this chapter or of any previous chapter or amendment.

§ 143-157.1. Expansion of existing nonconforming residences.

In all existing residences which encroach upon minimum setback requirements, additions shall be allowed as a matter of right; provided, however, that such additions shall not increase the degree or extent of nonconformity beyond the existing nonconformity limits or dimensions. In addition, such expansion shall not increase the total building area by more than 33%.

ARTICLE XX
Conditional Uses

§ 143-158. Application procedures.

Pursuant to P.L. 1975, c.291, the Planning Board may grant conditional uses wherever permitted in this chapter. Application for a conditional use shall be made in accordance with the procedures set forth in Part 3 of this chapter for preliminary subdivision plat approval, and the Planning Board shall act on the application in accordance with said procedures for preliminary subdivision plat approval. Requirements for conditional uses provided for in this chapter shall be as follows.

§ 143-158.01. Location requirements.

Properties containing a conditional use shall be separated by a minimum of 1,000 feet, measured in a straight line, from the nearest property line of the same conditional use. This separation requirement shall not apply to the following conditional uses:

Apartments over businesses	§ 143-167
Home occupations	§ 143-173.2
Keeping of animals	§ 143-173.3

§ 143-159. Service stations.

- A. Minimum lot size shall be 40,000 square feet, and shall meet the minimum lot dimensions to those required in the HC Highway Commercial Districts.
- B. Minimum building setback from a front street line shall be 100 feet. All pump islands shall be set back a minimum of 30 feet from any street line. Minimum width of each side yard shall be 30 feet. On corner lots, the side street setback line shall conform to that existing or required on the side street. Minimum rear yard depth for service stations shall be 50 feet.
- C. Parking and paved area setbacks shall be those established for the HC Highway Commercial Districts.
- D. Parking on the site shall be limited to those vehicles of employees, those which are involved in repairs or servicing at the station and those commercial vehicles accessory and necessary to the operation of the service station. No other parking shall be permitted. No parking shall be permitted on unpaved areas.
- E. There shall be a minimum of 1,500 feet between service stations and limited service stations, which distance shall be measured from the nearest property lines; provided, however, that this restriction shall not apply to stations located along opposite side lines of a dual highway with traffic lanes divided by a permanent median strip.
- F. No service station shall be located within 300 feet of any school, theater, church, public park or playground, fire station, health-care facility, first-aid station, public building or institution.
- G. All appliances, pits and storage areas other than gasoline filling pumps and air pumps shall be within a building. All lubrication, repair or similar activities shall be performed in a fully enclosed building, and no dismantled parts shall be displayed outside of an enclosed building.

§ 143-160. Limited service stations.

Limited service stations shall be permitted in accordance with following regulations:

- A. Minimum area and yard requirements.
- (1) Principal building minimum.
 - (a) Lot area: 40,000 square feet.
 - (b) Lot frontage: 150 feet.
 - (c) Lot width: 150 feet.
 - (d) Lot depth: 125 feet.
 - (e) Side yard (each): 25 feet.
 - (f) Front yard: 50 feet.
 - (g) Rear yard: 50 feet.
 - (2) Maximum building coverage of principal building: 10%.
 - (3) Maximum building height. No building shall exceed 15 feet in height and shall consist of no more than one story.
- B. Parking and paved area setback shall be those established for the HC Highway Commercial Districts.
- C. Parking on the site shall be limited to those vehicles of employees, those which are involved in gasoline servicing at the station and those commercial vehicles accessory and necessary to the operation of the service station. No other parking shall be permitted. No parking shall be permitted on unpaved areas.
- D. There shall be a minimum of 1,500 feet between service stations, which distance shall be measured from the nearest property lines; provided, however, that this restriction shall not apply to stations located along opposite side lines of a dual highway with traffic lanes divided by a permanent divider.
- E. No service station shall be located within 300 feet of any school, theater, public park or playground, fire station, health care facility, first-aid station, public building or institution.
- F. There shall be only one principal building permitted on the site for limited storage, business transaction and rest room facilities.
- G. All vehicular access, whether ingress or egress, shall be limited to the Route 23 right-of-way only.

§ 143-160.1. Limited service stations with convenience center. [Amended 10-18-2011 by Ord. No. 2011-16]

- A. All regulations for Limited Service Stations apply with the following exceptions:
- (1) Minimum lot area: two acres.
 - (2) One parking space for each 200 square feet of the GFA of the principal building.

§ 143-161. Car washes.

- A. Minimum lot size shall be two acres, and shall meet the minimum lot dimensions to those required in the HC Highway Commercial Districts.
- B. Minimum building setback from the front street line, side lines and rear line shall conform to those required in the HC Highway Commercial Districts.
- C. Parking and paved area setbacks shall be those established for the HC Highway Commercial Districts.
- D. The following parking shall be provided and satisfactorily maintained by the owner of the property:
 - (1) Entrance lanes: 12 spaces per lane for each lane at the entrance to the car wash structures.
 - (2) Exit lanes: four spaces per lane for each lane at the exit of the car wash structures.
 - (3) Employees: one space for each employee.
 - (4) Special services: one space for each waxing, upholstery cleaning or similar specialized service area.
- E. All operations, including but not limited to washing and drying, shall be conducted within the structure; provided, however, that the lining up and waiting of vehicles may take place outside said structure, but only within the confines of the proposed site.
- F. All car washes shall tie directly into a municipal sanitary or storm sewer and must first receive approval of the health officer and any agency of the state or county having jurisdiction over the treatment of the effluents created by the car washes.
- G. This use shall not include a self-service or coin-operated car wash area in any form.
- H. All provisions, standards and requirements for the HC Highway Commercial District, except as herein modified, shall apply to car washes.

§ 143-162. Health-care facilities.

- A. The minimum lot size shall be three acres. Minimum building setback from a front street line shall be 100 feet. Minimum width of each side yard shall be 50 feet.
- B. The lot shall front on a collector or arterial road as specified in the Borough Master Plan, and all ingress and egress shall be limited to such road.
- C. A landscaped area at least 20 feet wide shall be provided along any property line.

§ 143-163. Churches; places of religious worship.

- A. The lot shall front on a collector or arterial road as specified in the Borough Master Plan, and all ingress and egress shall be limited to such road.

- B. A landscaped area at least 20 feet wide shall be provided along any property line.
- C. Minimum lot size shall be five acres.

§ 143-164. Public and private schools teaching academic subjects.

- A. The minimum lot size shall be three acres. Minimum building setback from a front street line shall be 100 feet. Minimum width of each side yard shall be 50 feet.
- B. The lot shall front on a collector or arterial road as specified in the Borough Master Plan, and all ingress and egress shall be limited to such road.
- C. A landscaped area at least 20 feet wide shall be provided along any property line.
- D. All recreational equipment and play areas shall be located in rear and side roads only.

§ 143-165. Cemeteries.

- A. The minimum lot size shall be five acres.
- B. The lot shall front on a collector or arterial road as specified in the Borough Master Plan, and all ingress and egress shall be limited to such road.
- C. A landscaped area at least 20 feet wide shall be provided along any property line.

§ 143-166. Funeral homes.

- A. Minimum lot size shall be two acres, and shall meet the minimum lot dimensions to those required in the HC Zone, Highway Commercial Districts.
- B. The lot shall front on a collector or arterial road as specified in the Borough Master Plan, and all ingress and egress shall be limited to such road.
- C. A landscaped area at least 20 feet wide shall be provided along any property line.

§ 143-167. Adult novelties and adult bookstores. [Added 7-21-2007 by Ord. No. 2007-24]

- A. Minimum lot dimensions shall conform to those required in the HC Zone, Highway Commercial District.
- B. Adult novelties and adult bookstores shall not operate within 1,000 feet of any church, synagogue, temple or other place of religious worship, or any elementary or secondary school or any school bus stop, or any municipal or county playground or place of public resort and recreation, or within 1,000 feet of any residential use.
- C. The minimum front yard shall be 100 feet.
- D. There shall be only one principal building on the lot.

- E. No outdoor display of merchandise.
- F. A landscaped perimeter of at least 50 feet in width with plantings, fence or other physical divider along the outside of the perimeter sufficient to impede the view of the interior of the premises in which the business is located.
- G. The perimeter buffer shall meet the setback requirements established in this section and in § 143-118 Schedule D for Principal Buildings.
- H. One exterior identification sign, not exceeding 40 square feet in size, attached flat against the front of the building.
- I. One sign giving notice that the premises are off limits to minors, not exceeding 10 square feet may be attached to the front door.
- J. No entertainment, video booths, etc. are permitted.

§ 143-168. Drive-in banks.

- A. Minimum lot dimensions shall conform to those required in the HC Highway Commercial Districts.
- B. The lot shall front on a collector or arterial road as specified in the Borough Master Plan, and all ingress and egress shall be limited to such road.
- C. A landscaped area at least 20 feet wide shall be provided along any property line.
- D. All other regulations of the HC Highway Commercial Districts, except as herein modified, shall apply.

§ 143-169. Community residences for more than six developmentally disabled persons; community shelters for more than six victims of domestic violence.

Pursuant to N.J.S.A. 40:55D-66.1 et seq.:

- A. There shall be a minimum lot size of 25,000 square feet with a maximum depth of measurement of 200 feet.
- B. The setback requirements of the zone district in which the use is located shall be met.
- C. All other requirements applicable to one family dwellings in the R-1 Residence District shall be met.
- D. No more than 15 persons, exclusive of the resident staff, shall be housed in a single community residence for developmentally disabled persons or in a single community shelter for victims of domestic violence located in any residence zone.
- E. No property devoted to a community residence for developmentally disabled persons and no property devoted to a community shelter for victims of domestic violence shall be located within 1,500 feet of another property devoted to either of such uses.

- F. A conditional use permit for a community residence for developmentally disabled persons or for a community shelter for victims of domestic violence shall not be issued if the total number of persons currently residing at such facilities within the Town exceeds, exclusive of resident staff, 50 persons or 0.5% of the population of the Town, whichever is greater.
- G. Any shelter created for victims of domestic violence be approved and certified by the Department of Human Services pursuant to P.L. 1979, Chapter 337 (30:14-1), et. seq.).

§ 143-170. Automobile sales establishments.

- A. There shall be a minimum lot area of five acres. A minimum lot frontage of 200 feet, a minimum lot width of 300 feet and a minimum lot depth of 400 feet.
- B. Minimum building setbacks shall be:
 - (1) Front: 100 feet.
 - (2) Rear: 50 feet (100 feet from a residence district boundary).
 - (3) Side: 50 feet (100 feet from a residence district boundary).
- C. Accessory buildings shall meet the building setback requirements for principal buildings. An accessory building shall be located at least 50 feet from another building.
- D. There shall be only one principal building. Showroom, sales area, office space and service facilities shall all be considered principal uses.
- E. The total ground coverage of all buildings shall not exceed 20% of the lot area.
- F. Building and paved surfaces combined shall not exceed 70% of the lot area.
- G. Outdoor display and storage areas shall meet setback requirements applicable to parking areas.
- H. The minimum aggregate ground floor area of all buildings shall be 10,000 square feet.
- I. All other provisions of this ordinance applicable to the zone district in which the use is located shall be met.

§ 143-171. Garden centers and building materials sales.

- A. There shall be a minimum lot area of five acres. A minimum lot frontage of 200 feet, a minimum lot width of 300 feet, and a minimum lot depth of 400 feet.
- B. Minimum building setbacks shall be:
 - (1) Front: 100 feet.
 - (2) Rear: 50 feet (100 feet from a residence district boundary).
 - (3) Side: 50 feet (100 feet from a residence district boundary).

- C. Accessory buildings shall meet the building setback requirements for principal buildings. An accessory building shall be located at least 15 feet from another building.
- D. There shall be only one principal building. Showroom sales area and office space shall all be considered principal uses.
- E. The total ground coverage of all buildings shall not exceed 20% of the lot area.
- F. Building and paved surfaces combined shall not exceed 70% of the lot area.
- G. Outdoor display and storage areas shall meet the setback requirements applicable to parking areas. Except for live plant material, stored materials and merchandise shall not exceed a height of 10 feet if located within 25 feet of a property line nor a height of 15 feet if stored anywhere on the site.
- H. The minimum aggregate ground floor area of all buildings shall be 10,000 square feet.
- I. All other provisions of this ordinance applicable to the zone district in which the use is located shall be met.

§ 143-172. Drive-in and fast-food restaurants.

- A. There shall be a minimum lot area of one acre. Except as provided below, all other yard and bulk requirements of the zone in which the use is located shall be met.
- B. The lot shall be at least 1,000 feet, measured in a straight line, from the nearest property line of another drive-in or fast-food restaurant which is located on either the same or opposite side of the street.
- C. The ground floor area of the building shall be at least 2,000 square feet.
- D. Separate entrance and exit driveways and one-way traffic circulation on the lot shall be maintained. Driveway openings shall be at least 24 feet in width with a radius at the curbline of at least three feet. There shall be a safety zone of at least 50 feet between driveway openings and no entrance or exit shall be located within 25 feet of an adjoining property.
- E. Corner lots shall have a curb radius of at least 25 feet and driveway openings shall be at least 50 feet from the radius tangent points.
- F. Off-street parking shall be provided in accordance with the requirements of this Ordinance. In addition, no parking area shall be located within 10 feet of an adjoining property.
- G. Sidewalks, at least five feet in width, shall be provided along front and side building walls.
- H. Appropriate fire lanes adjoining the building shall be maintained where required.
- I. Trash receptacles for customer use shall be provided adjacent to the parking area conveniently located for all parking spaces. There shall be at least one receptacle for each six parking spaces, but in no event less than four receptacles. Such receptacles shall

be of appropriate design which will not detract from the general appearance of the site and shall be well secured to the ground surface.

- J. An area shall be provided for the orderly and convenient deposit and pickup of trash in accordance with § 143-90. Said area shall be located in the rear yard, shall be enclosed on all four sides and shall be designed to conform in appearance to the principal building. Said area shall be at least 20 feet from an adjoining property line.

**§143-173. Cannabis Retail and Medical Cannabis Dispensary Establishment.
[Amended 7-20-2021 by Ord. No. 2021-16]**

- A. Cannabis Retail Establishments and Medical Cannabis Dispensaries shall only be permitted in the HC Zone—Highway Commercial District.
- B. Minimum setback and bulk requirements shall be as set forth in §143-118 Schedule D, except as to existing structures.
- C. No drive-through window shall be permitted.
- D. Minimum useable floor area of 1,200 square feet.
- E. No Cannabis Retail Establishment or medical cannabis dispensary shall be located within 2,000 linear feet of another Cannabis Retail Establishment or medical cannabis dispensary as measured from the property lines.
- F. No Cannabis Retail Establishment or medical cannabis dispensary shall be located within 1,000 linear feet in any direction of a school, licensed daycare facility, church, synagogue, or religious worship center, public park, library or a licensed substance abuse disorder clinic or facility, as measured from the property lines.
- G. Hours of operation shall be limited to 7 a.m. through 11 p.m. daily.”

§ 143-173.1. Wireless telecommunications antennas and facilities.

- A. Purpose. The purpose of this section is to establish general guidelines for the siting of wireless telecommunication facilities, towers and antennas. These goals are as follows:
- (1) To protect residential areas and land uses from potentially adverse impacts of wireless telecommunication towers and antennas;
 - (2) To the extent that towers are proven necessary, to require their location in appropriate locations as conditional uses;
 - (3) To minimize the total number of towers throughout the community;
 - (4) To strongly encourage the siting of wireless telecommunication facilities on existing buildings, structures; the use of micro-sites; and the collocation of new facilities on existing tower sites, rather than the construction of additional single-use towers;
 - (5) To encourage users of wireless telecommunication sites to construct and configure them in a way that minimizes the adverse visual impact of the support structures and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;

- (6) To enhance the ability of the providers of telecommunications services to provide such services to the community effectively and efficiently;
 - (7) To avoid potential damage to adjacent properties from antenna support structure failure through engineering techniques and the careful siting of these structures; and
 - (8) To provide additional antenna sites for the Borough of Butler operational and emergency services.
- B. Locational priority. In accordance with an overall comprehensive plan for the provision of complete wireless telecommunications service within the Borough of Butler area, wireless telecommunication facilities, where permitted as a conditional use, shall be located in accordance with the following prioritized locations:

- (1) The first priority locations shall be as follows:
 - (a) The use of micro-sites, provided that such site does not include support structures (towers) greater than 75 feet in total height.
 - (b) Collocation on existing wireless telecommunications towers;
 - (c) Existing water tanks, utility structures, billboards, and nonresidential building and structures provided that the new installation does not increase the height by more than 20%; and
- (2) The second priority location shall be on lands or structures owned by Borough entities; and
- (3) The third priority location shall be within such nonresidentially zoned locations as the applicant proves are essential to provide the required service to the Borough of Butler area.

C. Collocation policy.

- (1) An applicant to construct a wireless telecommunications tower shall present documentary evidence regarding the need for cellular antennas within the Borough of Butler. This information shall identify the wireless network layout and coverage areas to demonstrate the need for such equipment within the Borough.
- (2) An applicant proposing to erect a new wireless telecommunications tower shall provide documentary evidence that a legitimate attempt has been made to locate the antennas on existing buildings or structures or collocation sites. Such evidence shall include a radio frequency engineering analysis of the potential suitability of existing buildings or structures or collocation sites in the search area for such antennas. Efforts to secure such locations shall be documented through correspondence between, the wireless telecommunications provider and the property owner(s) of the existing buildings or structures or collocation sites. The Borough reserves the right to engage a professional radio frequency engineer to review such documentation.
- (3) Applicants proposing to construct new wireless telecommunications towers shall document the locations of all existing telecommunications towers within the Borough of Butler Borough surrounding areas with coverage in the Borough and any changes proposed within the following twelve-month period including plans for new locations and the discontinuance or relocation of existing facilities. Applicants shall provide competent testimony by a radio frequency engineer regarding the suitability of potential locations in light of the design of the wireless telecommunications network. Where a suitable location on an existing tower is found to exist, but an applicant is unable to secure an agreement to collocate its equipment on such tower, the applicant shall provide written evidence of correspondence with the owner of such tower verifying that suitable space is not available on the existing tower(s). Where an applicant to construct a new tower is not a wireless service provider, the applicant shall prove that adequate wireless

telecommunications services, sufficient to meet the requirements of the Telecommunications Act of 1996, cannot be provided without the proposed tower.

- (4) Site location alternative analysis. Each application shall include a site location alternative analysis describing the location of other sites considered, the availability of those sites, the extent to which other sites do or do not meet the provider's service or engineering needs and the reason why the subject site was chosen. The analysis shall address the following issues:
 - (a) How the proposed location of the wireless telecommunications tower relates to the objective of providing complete wireless telecommunication services within the Borough of Butler area at the time full service is provided by the applicant throughout the Butler Borough area.
 - (b) How the location of the proposed wireless telecommunications tower relates to the location of any existing antennas within the Borough and within three miles of the Butler Borough area.
 - (c) How the proposed wireless telecommunications facility relates to the anticipated need for additional facilities within and near the Butler Borough area by the applicant and by other providers of wireless communication services within the Borough and within three miles of the Butler Borough area.
 - (d) How the location of the proposed wireless telecommunications tower relates to the objective of collocating the antennas of the different providers of wireless telecommunication services on the same structure.
 - (e) How the collocation of the proposed antennas on other existing antenna structures, or that a location of less visibility, or that the use of micro-cells, providing more numerous antennas at lower heights, either within or outside the Borough of Butler, is not practical in order to provide adequate communication or that the visual impact to the community on the proposed site is less than would exist at such alternative locations; and,
 - (f) How the applicant's plan specifically relates to and is coordinated with the needs of all other providers of wireless communication services within the Borough of Butler area.
 - (5) The Planning Board or Zoning Board, as is appropriate, may retain technical consultants as it deems necessary to provide assistance, in the review of the site location alternatives analysis. The service provider (applicant) shall bear the reasonable costs associated with such consultation.
- D. Visual compatibility requirements for the installation of wireless telecommunications antennas and towers. Wireless telecommunications antennas may be erected on existing buildings or structures, and an equipment compound may be constructed in support of such antennas consistent with the following requirements:

- (1) Antenna arrays may be mounted on existing buildings or structures but shall not extend beyond the overall height of any such building or structure by more than 15 feet.
 - (2) Any equipment building, any wireless telecommunications tower and any related structures and equipment shall be located within an equipment compound as provided in subsection 3 below. Said compound shall be enclosed within a solid wooden fence, or chain link fence at least seven feet and no more than eight feet high as approved by the Borough Engineer and shall include a locking security gate.
 - (3) An equipment compound consisting of no more than 1,500 square feet in area may be erected in support of such antenna arrays provided it is:
 - (a) Situated to ensure that significant views, streetscapes and landscapes are protected. The views of and vistas from significant structures should not be impaired or diminished by the placement of telecommunication facilities. To the greatest extent possible, equipment compounds should be situated behind existing structures, building or terrain features which will shield the compound from public views; or
 - (b) When a location out of public view is not possible, a landscape buffer of 20 feet in width shall be provided around the compound to shield the facility from public view. Landscaping shall include evergreen trees at least eight feet high at the time of planting and planted in staggered double rows at 12 feet on center, or equivalent, and as approved by the Borough Engineer.
 - (c) In locations adjacent to residential zones and/or property lines where chain link fencing is utilized, a landscaped berm with a minimum height of three feet shall be provided. Such berms shall also be landscaped with evergreen plantings with a minimum at planting height of six feet and approved by the Borough Engineer. Additional fencing, (for screening purposes) outside the compound area shall be provided, as deemed necessary by the Board.
 - (4) Antennas installed according to these provisions shall be suitably finished and/or painted so as to minimize their visual impact on the landscape. Depending on the placement of this equipment, color should be selected to be consistent with the color scheme of the building or structure on which they are mounted, in order to blend with their surroundings. When this is not possible, color selection shall be designed to minimize the visual impact of the antenna arrays.
 - (5) Wireless telecommunications towers shall be located to minimize visual impact on residential areas and the public way. Equipment buildings and equipment compounds shall comply with subsection D.2 and 3 above.
- E. Height and setbacks. When an application to construct a wireless telecommunications tower demonstrates to the satisfaction of the reviewing agency that suitable locations on existing buildings or structures either do not exist or are not available, the applicant may erect a new telecommunications tower according to the following requirements:

- (1) Minimum setback of tower: Limited to side and rear yards with a minimum setback equal to the height of the tower structure.
 - (2) Maximum tower height: Not higher than as demonstrated to be essential according to a radio frequency analysis and to encourage collocation, when visually appropriate, but in no case shall exceed 125 feet in total height.
 - (3) Location of telecommunications equipment buildings:
 - (a) Where existing telecommunication facilities are utilized within nonresidential buildings, such new proposed equipment shall also be located within the building.
 - (b) Where new equipment building(s) are required, the compound setback shall meet the setbacks for principal buildings within the particular nonresidential zone.
 - (c) Where an equipment compound adjoins a residential zone or property, a minimum setback of 75 feet shall be provided.
 - (4) Maximum equipment building height: 14 feet.
- F. Distance between facilities. The following minimum distances between wireless telecommunications facilities shall be as follows:
- (1) Towers shall not be erected within 5,280 feet (one mile) of any other existing or approved telecommunication tower.
 - (2) Where micro-site and/or building/structure mounted antennas are utilized, the minimum distance between all facilities shall not be greater as deemed minimally necessary to provide adequate wireless telecommunications service, but in no case, shall be less than 1/4 of a mile.
- G. Antenna modifications, and tower certification. Wireless telecommunication towers must be constructed to the Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) Revision F Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures" (or equivalent) as it may be updated or amended. Operators of wireless telecommunications towers shall provide to the Borough of Butler a bi-annual report from a licensed professional engineer certifying the structural integrity of the tower, together with all antennas mounted thereon, and that they meet applicable minimum safety requirements. Such report shall also be provided whenever antenna arrays are modified, and shall include a detailed listing of all antennas and equipment so certified. Vendors shall also be required to notify the Borough when the use of such antennas and equipment is discontinued. If the bi-annual report discloses that the condition of any tower presents an imminent hazard to the public health, safety and welfare, the Borough Engineer shall order the owner of the tower to take appropriate corrective action including, if necessary, the removal of the tower to protect the public health, safety and welfare. Wireless telecommunication towers shall be maintained to assure their continued structural integrity. The owner of the tower shall also perform such other maintenance of the structure and of the site as to assure that it does not create a visual nuisance.

- H. Abandonment and removal. Wireless telecommunications towers and equipment which are not operated for wireless telecommunications purposes for a continuous period of six months shall be considered abandoned and shall be removed by the facility owner at its cost. This removal shall occur within 90 days of the end of such six-month period. If such wireless telecommunication tower is not removed within said 90 days, the municipality may remove such tower at the owner's expense. If the facility is to be retained, the owner shall provide proof that the facility will be reused within one year of such discontinuance. If a facility is not reused within one year, a demolition permit shall be obtained and the facility removed. Upon removal, the site shall be cleaned, restored, and re-vegetated to blend with the existing surrounding vegetation at time of abandonment. The facility owner shall post a bond at the time that a construction permit is issued to cover the costs of tower removal and site restoration. The amount of the bond shall have taken into consideration cost escalations.
- I. Collocation required. Authorization for the construction for a new wireless telecommunications tower shall be conditioned on agreement by the tower owner that other wireless service providers will be permitted to collocate on the proposed tower within the limits of structural and radio frequency engineering requirements and at rates which reflect the fair market price for such service. As part of the application for tower approval, the applicant shall document the extent to which additional equipment could be mounted on the tower and the types of equipment which could be accommodated. Ordinance limitations on the number of structures on a lot shall not apply when wireless telecommunication towers and equipment are located on a lot with buildings or structures already thereon.
- J. Monopole construction. Monopole tower construction shall be utilized in all cases except where it can be conclusively demonstrated that monopole construction is not suitable for a specific location or application or that a different type of tower is necessary for the collocation of additional antennas on the tower.
- K. Fencing and other safety devices. Wireless telecommunication towers, equipment buildings and compounds shall meet the requirements of § 143-173.01D.2 and 3 above. All towers shall be designed with anti-climbing devices in order to prevent unauthorized access. Additional safety devices shall be permitted or required, as needed, and as approved by the Planning or Zoning Board as may be deemed necessary.
- L. Landscaping. Landscaping shall be provided along the perimeter of the security fence to provide a visual screen or buffer for adjoining private properties and the public rights-of-ways. All equipment buildings and compounds shall be screened in accordance with § 143-173.01D.2 and 3 above.
- M. Signs. Signs shall not be permitted except for signs displaying owner contact information, warnings, equipment information, and safety instructions. Such signs shall not exceed two square feet each in area. No commercial and/or noncommercial advertising shall be permitted on any wireless telecommunication tower or equipment building.

- N. Color. Wireless telecommunication towers shall be of a color appropriate to the tower's locational context and to make it as unobtrusive as possible, unless otherwise required by the Federal Aviation Administration (FAA).
- O. Activity and access. To the greatest extent possible, all equipment shall be designed to be as automated as possible in order to reduce the need for onsite maintenance and thereby to minimize the need for vehicular trips to and from the site. Access shall be limited to locations designated on an approved site plan. Whenever possible, access shall be from established site access points. Minimal off-street parking shall be permitted as needed and as approved by the Planning or Zoning Board.
- P. Dish antennas. Dish antennas shall be colored, camouflaged or screened to make them as unobtrusive as possible and in no case shall the diameter of a dish antenna exceed two feet.
- Q. Lighting. No lighting is permitted except as follows:
- (1) Equipment buildings and compounds may have security and safety lighting at the entrance, provided that the light is attached to the equipment building, is focused downward and is on timing devices and/or sensors so that the light is turned off when not needed for safety or security purposes; and
 - (2) No lighting is permitted on a wireless telecommunications tower except for lighting that is specifically required by the Federal Aviation Administration (FAA). Any such required lighting shall be focused and shielded from adjacent and nearby properties.
- R. Site plan application requirements for the installation of wireless telecommunications towers.
- (1) All site plan details required by § 143-85 shall be provided and shall include the site boundaries; tower location; existing and proposed structures, including accessory structures; existing and proposed ground-mounted equipment; vehicular parking and access; structures; and land use designations on the site and adjoining parcels.
 - (2) A landscape plan drawn to scale of one inch equals 10 feet showing the proposed landscaping, including species type, number, size, spacing, other landscape features, and existing vegetation to be retained, removed or replaced. A note shall be included on the plan indicating a minimum two-year plant replacement guarantee.
 - (3) A report from a qualified expert containing the following:
 - (a) A description of the tower and the technical and other reasons for the tower design and height.
 - (b) Documentation to establish that the tower has sufficient structural integrity for the proposed use and for the anticipated future collocated antennas at the proposed location and meets the minimum safety requirements and margins according to FCC requirements in their current adopted Standards and

revisions and the structural standards developed for antennas by the Electronic Industries Association (EIA) and/or the Telecommunications Industry Association (TIA) have been met.

- (c) The general capacity of the tower in terms of the number and type of antenna it is designed to accommodate.
 - (d) A statement detailing current FCC information concerning wireless telecommunication towers and radio frequency emission standards as well as information on the projected power density of the proposed facility and how it meets the FCC standards.
- (4) A letter of commitment by the applicant as approved by the Board Attorney, to lease excess space on the tower to other potential users at prevailing rates and standard terms. The letter of commitment shall be recorded in the Office of the Morris County Clerk prior to issuance of a building permit. The letter shall commit the tower owner and successors in interest.
- (5) A visual impact study, graphically simulating through computer-enhanced graphics, or similar techniques, the appearance of any proposed tower and indicating its view from at least eight locations around and within one mile of the proposed wireless telecommunication towers where the wireless telecommunication towers will be most visible. Elevations of the proposed tower and accessory building generally depicting all proposed antennas, platforms, finish materials, and all other accessory equipment shall also be provided. Aerial photograph(s) of the impact area shall also be submitted.
- S. Preexisting and nonconforming wireless telecommunication towers and facilities. Wireless telecommunication towers in existence on the date of the adoption of this ordinance (nonconforming wireless telecommunication towers) are subject to the following provisions:
- (1) Nonconforming wireless telecommunication towers may continue for the purpose now used, but may not be expanded without complying with this ordinance.
 - (2) Nonconforming wireless telecommunication towers which are partially damaged or destroyed due to any reason or cause may be repaired and restored to their former use, location and physical dimensions subject to obtaining a building permit therefore, but without otherwise complying with this ordinance. If this destruction requires complete tower replacement, the telecommunications facility will require compliance with this ordinance.
 - (3) The owner of any preexisting, nonconforming wireless telecommunication towers may repair, rebuild and/or upgrade (but not expand such wireless telecommunication towers or increase its height or reduce its setbacks), in order to improve the structural integrity of the facility, to allow the facility to accommodate collocated antennas or facilities, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of this ordinance.

§ 143-173.2. Home occupation.

A. Home occupations as defined herein are permitted as conditional accessory uses within residential districts as indicated in Schedule C, and are also subject to the following regulations:

- (1) The home occupation is practiced only by a member or members of the household or individuals in permanent occupancy of the subject premises.
- (2) The area consumed by the home occupation (business) shall be located within the principal dwelling and limited in area to not more than one-room, or 20% of the floor area of the floor level (exclusive of basement) in which use is located, or 300 square feet of floor area, whichever is less.
- (3) There shall be no signs, displays, or activity that will indicate from the exterior that the structure is being used, in part, for any purpose other than that of a residence. The public display of goods visible from the public street or abutting properties shall be prohibited.
- (4) The home occupation use and all related activity, including storage, shall be conducted completely within the confines of the dwelling unit or permitted accessory structure.
- (5) There shall be no commodities sold, or direct services rendered that require receipt or delivery of merchandise, goods, or equipment by other than a passenger motor vehicle or by parcel or letter carrier mail service.
- (6) There shall be no special structural alterations or constructed features to the residence or permitted accessory structure, nor the installation of special equipment attached to walls, floors, or ceilings.
- (7) The home occupation and any related activity shall not create any traffic hazards or nuisances within the public streets and other public rights-of-way and all vehicle parking generated by such operations shall be located on the subject property to which the home occupation is a permitted conditional accessory use.
- (8) There shall be no perceptible noise, odor, smoke, electrical interference, vibration, or other nuisance emanating from the structure in which the home occupation is located in excess of that normally associated with a residential use.

B. Prohibited home occupation uses. The following uses shall be not be deemed home occupation uses and are prohibited in all residential zones and in all dwelling units located within nonresidential zones:

- (1) The operation of clinics, hospitals, alcohol rehabilitation facilities and outpatient dispensaries;
- (2) The services of a doctor, dentist, veterinarian, psychiatrist, psychologist, nursing or convalescent care or other health-care service which involves patient or client visitation;

- (3) The services of any professional, including but not limited to lawyers, accountants, real estate sales, insurance agents, etc., which involves client visitation;
 - (4) Barber shops, beauty parlors, massage parlors, tanning salons, tattoo parlors, or any similar personal services;
 - (5) Pet-care/grooming, kennels, animal hospitals or animal recuperation/rehabilitation services, or any similar services for animals;
 - (6) Music or dance lessons other than for individual instruction of one pupil at a time;
 - (7) The dispensing of food for consumption on and/or off the premises;
 - (8) The operation of a taxi service, or the operation of a limousine service having more than one limousine parked on the premises;
 - (9) The operation of a business which results in the storage or maintenance of construction equipment such as, but not limited to, backhoes, dump trucks, flatbed trucks, equipment trailers, tractors, compressors, cement mixers and similar equipment on the residential premises;
 - (10) The storage, maintenance, repair or sale of motor powered equipment such as, but not limited to automobiles, trucks, motorcycles, motor bikes or lawn mowers, provided however, that such activities if otherwise lawful may be conducted by residents of the property in connection with motorized equipment owned by such residents for their own personal use;
 - (11) The assembly or storage of motor vehicles for shipment; and,
 - (12) Assembly or manufacturing of any kind.
- C. All home based businesses, as defined herein, shall be required to register with the Borough. A renewable permit shall be issued by the Borough and shall be renewed by the property owner on an annual basis on or before January 31 each year. A \$50 registration fee shall accompany each application each year.

§ 143-173.3. Keeping of animals.

- A. The keeping of animals, both domestic and livestock, shall be permitted in all residential districts as an accessory use. The keeping of animals in other districts shall require a conditional use approval by the Planning Board.
- B. The following standards shall regulate the keeping of animals:

Animals	Minimum Lot Size (acres)	Number Permitted Per Acre or Per Residence	Required Housing Space Per Animal (square feet)
Horse or pony	5	1 per acre	100

Animals	Minimum Lot Size (acres)	Number Permitted Per Acre or Per Residence	Required Housing Space Per Animal (square feet)
Cattle	5	1 per acre	100
Sheep	5	1 per first acre 3 per second acre 5 per third or more acre	20
Goats	5	1 per first acre 3 per second acre 5 per third or more acre	30
Swine	5	1 per acre	60
Poultry	5	1 per acre	60

- C. The keeping of any animal not specifically listed above is prohibited. Notwithstanding the foregoing, the owner of a residential dwelling may continue to keep the same number of dogs and cats that the owner possessed on the date of the passage of this chapter in circumstances where the number exceeds the limits imposed by this chapter.
- D. Any area for the keeping of animals, other than a dog or cat, shall be located as follows: (1) At least 100 feet from a neighboring dwelling and at least 50 feet from the dwelling on the lot.
 - (2) At least 25 feet from any side and rear lot line.
 - (3) No stable or outdoor containment area for the keeping of animals shall be located closer than 75 feet from the street line.
 - (4) All corral and stable areas must be at least 50 feet from any stream, well, water body or watercourse. Setback shall be increased to 300 feet to any Category One watercourse as defined by NJDEP.
- E. All animals on the property shall be owned by and for the sole and exclusive use of the residents on the lot upon which they are located.
- F. The keeping of one particular kind of animal shall preclude the keeping of other types of animal and counting the same lot area more than once.
- G. The following maintenance standards shall be enforced by the Borough Zoning Officer in connection with the Health Department, and failure to abide by these entities shall result in the revocation by the Borough to keep such animals:
 - (1) Manure must be collected daily and stored in fly and rodent proof containers which are to be removed from the property at least once per week.

- (2) Stables must be cleaned daily and kept dry with periodic treatment for flies and other insect larvae, to prevent breeding or areas of infestation.
- (3) Buildings, barns, stables and similar structures must be rodent proofed. Such facilities must also be kept in good repair and properly ventilated.
- (4) Adequate water facilities must be provided for drinking, cleaning and fire protection.
- (5) The use must be maintained so as to not become a source of odor or noise pollution.
- (6) Animals shall be physically controlled at all times within an approved structure or fence.

§ 143-173.4. Self Storage Facilities [Added 10-16-2018 by Ord. No. 2018-15]

- A. A minimum lot area of eighty thousand (80,000) square feet is required for self-storage warehouses, and shall meet the minimum lot dimensions to those required in the HC Highway Commercial Districts.
- B. Storage facilities shall be contained within a single principal building.
- C. The minimum floor rental storage area shall be 30,000 square feet.
- D. The maximum Floor Area Ratio is 40%.
- E. All building walls facing any street or residential zoning district line shall be suitably finished for aesthetic purposes, which shall not include metal, unpainted or painted cinder block walls. The applicant shall provide architectural building elevations which indicate the color, texture and material(s) to be utilized in the building construction. The Planning Board shall use its discretion to determine whether the proposed structures are compatible with the surrounding neighborhood.
- F. No building shall exceed a height of five stories or 60 feet with a minimum of three stories.
- G. There shall be no storage of food products, illegal materials, controlled substances or hazardous chemicals or materials of any kind. Further, there shall be no storage of firearms or animals, no operation of any machinery or generation of any operational noise, and no manufacturing process, wholesale operation, no business activity of any kind, including retail sales, or used for sleeping/habitation purposes. The facility shall agree to include in each lease a list of the prohibitions.
- H. No storage of any kind shall be conducted out of doors.
- I. Chain link fences are specifically prohibited.

- J. Such facility shall maintain an operational manager's office within the principal building.
- K. Any self-storage facility shall operate only during the hours of 6:00 a.m. and 8:00 p.m.
- L. There shall be at least one parking space per 2,500 square feet of storage area.
- M. Storage or parking of vehicles beyond the allowed business hours is strictly prohibited.
- N. Accessory buildings are not permitted.

ARTICLE XXI

Signs

§ 143-174. General sign provisions [Amended 6-16-2015 by Ord. No. 2015-12]

- A. No sign shall be constructed or displayed without first obtaining a permit from the Zoning Officer, unless specifically exempted.
- B. If there is any question as to the suitability of any sign or it's meeting the requirements of this chapter, either the Construction Code Official or Zoning Officer may refer said sign application to the Planning Board Site Plan Committee. The Site Plan Committee shall submit a report of its findings to the Construction Code Official or Zoning Officer, as the case may be, no later than one week after the receipt of the sign application by the Site Plan Committee Chairman or designee.
- C. Signs shall not be accepted or exempted from the limitations of any other section of this ordinance unless specifically stated. If there is a conflict, this Article shall prevail.
- D. The following shall be exempted only from the requirement for a sign permit. This shall not be construed as relieving the owner of the sign from the other requirements of this Article, nor its erection and maintenance in good and safe conditions.
 - (1) Memorial tablets or signs, names of buildings and date of erection when out into any masonry surface or when constructed of bronze or other noncombustible materials.
 - (2) Traffic or other municipal signs, legal notices, railroad crossing signs, danger signs, and such temporary emergency signs as may be erected by governmental or public utility employees in carrying out their work.
 - (3) Names on mailboxes.
 - (4) Occupant names on private residences; either, dwellings or property providing that the sign does not exceed 72 square inches.

- (5) Street number(s) on buildings providing that the sign does not exceed 72 square inches.
 - (6) Signs used on property warning the public against hunting, trapping and/or trespassing thereon.
 - (7) Signs attached to the inside of a window.
 - (8) Seasonal decorations on private residences.
 - (9) Sale or rental signs on residences, but not to be placed on any tree and not to exceed four square feet.
- E. No sign, including billboards as defined in this chapter shall exceed 250 square feet. For free standing signs, this shall apply to each side.
 - F. Overhanging signs are prohibited.
 - G. Banners or banner type signs, streamers, pennants and similar displays are prohibited.
 - H. Signs shall be either freestanding, or attached to buildings or structures, in an approved manner. All freestanding signs shall be permanently anchored by footings.
 - I. Any sign that uses the word "stop" or "danger" or otherwise presents or implies the need for requirement of stopping or caution or the existence of danger or which is likely to be confused with any sign displayed by public authority is prohibited. Exception: Items B, C, and D of section, § 143-175.
 - J. No sign shall be placed as to interfere with or be mistaken for a traffic control, or similar safety device. Exception: Items B, C, and D of section, § 143-175.
 - K. No sign shall be placed as to interfere with traffic visibility.
 - L. No sign shall be permitted which, in the opinion of the Traffic Safety Officer or designee, is considered a distraction or hazard to vehicular traffic.
 - M. No sign shall be placed on, erected on, or attached to the roof or rooftop of any building or structure. Exception: Signs may be attached to a Mansard roof or Mansard roof type building facade; but may not project above the highest elevation of the Mansard roof or Mansard roof type building facade.
 - N. No sign shall extend or project above the highest elevation of the wall to which it is attached.
 - O. All illuminated signs shall be either, indirectly lighted or of the diffused lighting type.
 - P. All lights used for the illumination of any use, or building or the areas surrounding them; or for the illumination or display of merchandise or products of business establishments; shall be shielded from the direct view of vehicular traffic using the road or roads abutting such properties. Exception: Neon signs may be directly viewed by vehicular traffic.
 - Q. All floodlights, or floodlight type of illumination, used for the illumination of said premises, or of any sign thereon, whether or not such floodlights are attached to or

separate from the building, shall not project light above the highest elevation of the illuminated area of the building.

- R. Signs attached to the exterior of windows are prohibited.
- S. No sign shall be attached to trees, fence posts, stumps, utility poles, bridges, culverts or other signs. Exception: Signs used on property warning the public against hunting, trapping and/or trespassing thereon.
- T. Customary warning or No Trespassing signs may be displayed in any zone. Not more than four signs shall be allowed and said signs, each, shall not exceed one square foot in area. Signs used on property warning the public against hunting, trapping and/or trespassing thereon shall comply with State Laws.
- U. A freestanding sign shall have a vertical clearance between the average ground level beneath the sign and the bottom edge of said sign of eight feet or greater or the top of the sign shall not extend more than three feet above the average ground elevation.
- V. No freestanding sign shall exceed a height of 25 feet above the average ground level beneath the sign.
- W. No advertising sign shall be erected or located on, within or over a public right-of-way.
- X. No sign or advertising structure shall be erected which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises. Example: Billboards. **[Amended 6-16-2015 by Ord. No. 2015-12]**
- Y. Not more than four signs advertising the sale and price of seasonal farm produce shall be allowed. Said signs shall not exceed a total of 24 square feet in combined area.
- Z. Uses on corner lots have frontage on both streets and signs shall be permitted accordingly.

§ 143-175. Permitted signs. [Amended 12-1-2009 by Ord. No. 2009-14]

The following signs are permitted for uses as specified:

- A. Signs, as part of an awning, canopy or marquee are permitted within the CBD and HC zones and shall be included when calculating the total sign area.
- B. Temporary safety, traffic, directional and warning signs, approved by the governing body shall be permitted in all zones.
- C. Traffic directional, traffic control and traffic safety signs containing such wording as "one-way", "do not enter", "no outlet", "stop", "enter" and "exit" may be located on any property, in any zone, provided the locations and sizes are approved by the Planning Board or designee.
- D. A temporary sign advertising the prospective sale or rental of the premises upon which it is located, not exceeding four square feet in area and provided that it shall be maintained

and removed within seven days after consummation of a lease or sale transaction is permitted in any zone.

- E. Non-illuminated, temporary signs on new construction sites, not exceeding 75 square feet in total area and provided they shall be maintained and removed within seven days after completion of the construction work, are permitted in any zone.
- F. Churches, places of worship: One freestanding sign not exceeding 12 square feet in area and 10 feet in height and set back at least 25 feet from all street rights-of-way and lot lines, plus one attached sign not exceeding 25 square feet in area.
- G. Health-care facilities: One freestanding sign not exceeding 12 square feet in area and 10 feet in height and set back at least 25 feet from all street rights-of-way and lot lines, plus one attached sign not exceeding 50 square feet in area.
- H. Public libraries, buildings used exclusively by Federal, State, County and local government for public purposes, public, private and parochial schools, public recreational and community center buildings and grounds: There shall be permitted one wall or freestanding ground identification sign not exceeding 25 square feet located on the premises. No such sign shall be located closer than 25 feet to a property line or street right-of-way line.
- I. Residential uses.
 - (1) A name plate sign, situated within the property lines and bearing only the name and address of the principal occupant providing that the sign does not exceed 72 square inches in total area.
 - (2) One sale or rent sign erected only on the property to be sold or rented, and shall not exceed four square feet in area.
 - (3) Not more than two temporary or ground signs for, and located within, any subdivision which has been approved by the Planning Board, provided that such sign does not exceed 24 square feet in area. In no case shall any such sign be located closer than 20 feet to any street or side lot line. Any such sign shall be moved within 30 days after 80% of the lots in the subdivision have been either sold or residence built thereon.
 - (4) Approved multifamily housing developments may have one sign along each arterial or collector road which the tract in question abuts, provided that there exists at least 150 feet of unbroken frontage. Such sign(s) shall not exceed 40 square feet in area and 10 feet in height. In addition, each sign shall be set back from all street rights-of-way and lot lines a minimum of 30 feet and shall display only the development's name.

J. Central Business District and Redevelopment Zone Uses: **Amended 6-21-2011 by Ord. No. 2011-13; Amended 10-18-2011 by Ord. No. 2011-16]**

- (1) Each use may have one (1) lighted or unlighted sign displaying the name of the use, attached flat against the front of the building or an integral part of an awning or canopy which is attached to the front of the building not exceeding an area equivalent to five percent (5%) of the front of the building or fifty (50) square feet, whichever is smaller.
- (2) Each use occupying the corner of the building may have one (1) unlighted sign displaying the name of the use, attached flat against the side of the building. The sign bottom shall be no higher than 10 feet from the ground level. The total signage shall be no larger than the signage permitted, by ordinance, in the front of the building. The sign shall only display the name of the uses occupying the building.
- (3) Where the building is designed for rear or side entrances, one (1) unlighted sign may be attached flat against the building at said entrance. The sign size shall not to exceed an area equivalent to half that of the sign, permitted by ordinance, on the front of the building.
- (4) Each use may have one (1) two sided, unlighted, blade sign no larger than 18 inches wide by 36 inches high. The bottom of the sign shall be between eight (8) feet and ten feet from the ground level. The signs shall be supported by a uniform bracket design which was approved by the Planning Board and on file in the Borough Clerk's office.
- (5) Signs may be displayed on the inside of the front windows of the first floor portion of the building.
- (6) One (1) freestanding easel may be placed against the building. This sign shall be 18 inches wide by 36 inches high in size. The easel shall not block the sidewalk and a four (4) foot sidewalk clearance must be maintained.

K. Retail sale of goods and services (other than CBD).

1. The following specific uses, retail sale of goods and services, restaurants, bars, taverns, banks, theaters, bowling alleys, automobile sales and car washes in the HC Highway Commercial District shall comply with the following sign requirements.
 - a. For grouped uses (shopping centers), on a single property: One freestanding sign advertising the center and the tenants shall be permitted not exceeding a total of 150 square feet. No sign shall exceed 25 feet in height at its uppermost edge.
 - b. For one use on a single property: One freestanding sign shall be permitted not exceeding 75 square feet in area. No sign shall exceed 25 feet in height at the uppermost edge.
2. In addition, each use may have one attached flat or an integral part of an awning or awning canopy, attached to the front of the sign not exceeding an area equivalent to 5% of the building front or 50 square feet, whichever is smaller. Where the buildings are designed for rear or side entrances, one unlighted sign may be attached flat against the building at the rear and side entrances, each sign not to exceed an area equivalent to ½ that of the sign on the front of the building.

- L. Office buildings and motels: one sign used only to display the name of the office complex or motel and not exceeding an area equivalent to 5% of the first floor portion of the front facade or 100 square feet, whichever is smaller. Such sign may be either freestanding or attached, and, if freestanding, shall be set back at least 25 feet from all street rights-of-way and lot lines. Where an individual office unit has direct access from the outside, a sign not exceeding six square feet, identifying the name of the office, may also be attached to the building at the office entrance. No sign shall exceed 25 feet in height at its uppermost edge.
- M. Service stations: One freestanding sign and one attached sign are permitted. The freestanding sign shall not exceed 20 square feet in area and shall be setback at least 10 feet from all street right-of-way and lot lines and shall be subject to the limitations of any sight triangle pursuant to § 143-73R. The attached sign shall not exceed 30 square feet in area. In addition, the following special signs shall be permitted:
- (1) Directional signs of lettering over individual entrance doors or bays, consisting only of the words "washing," "lubrication," "repairs," "mechanic on duty" or other words closely similar in import, provided that there shall be not more than one such sign over each entrance or bay, the letters thereof not exceeding 12 inches in height, and the total area of each sign shall not exceed six square feet.
 - (2) Customary lettering on, or other insignia which are a structural part of, a gasoline pump, consisting only of the brand name of gasoline sold, lead-warning sign, a price indicator and any other sign required by law, and not exceeding a total of three square feet on each pump, and, if illuminated, such signs shall be non-flashing and shall not in any manner constitute a traffic hazard with respect to adjacent streets or intersections.
 - (3) A non-illuminated credit card sign not exceeding eight square feet in area, which may be placed on or near the gasoline pump.
- N. Laboratories, industrial and manufacturing plants, wholesale distribution centers and warehouses: One sign not larger than the equivalent of 5% of the area of the front wall of the building or 100 square feet, whichever is smaller. If attached, the sign shall be attached flat against the building and shall not be higher than the roof line; if freestanding, the sign shall not exceed 10 feet in height shall be set back from all street rights-of-way and lot lines at least 50 feet.
- O. Reserved
- P. Electronic Signs [Added 10-16-2018 by Ord. No. 2018-15]
- (1) Definitions
 - (a) Static Sign - A sign which does not change its message or copy automatically by electronic or mechanical means.
 - (b) Digital Sign - A sign which changes message or copy electronically. The term "digital" is intended to encompass all electronic message signs, including L.E.D. and similar lighting technology.

(2) Location

- (a) Static signs shall be permitted in the CBD, LI, LI/CBD and the HC zones.
- (b) Digital signs shall be permitted in the HC zone only.
- (c) Static signs shall maintain a minimum distance of one hundred and fifty (150) feet from the closest residential zone boundary.
- (d) Digital signs shall maintain a minimum distance of two hundred (200) feet from the closest residential zone boundary. The required distance from the closest residential zone boundary up to fifty percent where it can be demonstrated that the sign face of the sign will not be visible to the adjacent residential zone district.

(3) Standards

- (a) Multiple message signs shall contain a default design that will either freeze the sign in one position or cause the sign area to go blank if a malfunction occurs.
- (b) The change from one display to the next shall be completely accomplished within one second or less.
- (c) All displays shall remain fixed for an interval of at least eight seconds.
- (d) Multiple message signs shall not display any image that is flashing, animated, moves, or appears to move. No multiple message sign shall be illuminated by intermittent or moving light.
- (e) Maximum brightness levels shall not exceed 0.2 foot candles over ambient light levels as measured within one hundred and fifty (150) feet of the sign. Certification from a qualified expert shall be provided to demonstrate the sign is designed to automatically adjust the brightness so as to not exceed these levels.

ARTICLE XXII
Administration and Enforcement

§ 143-176. Enforcement.

- A. This Part 5 Zoning Regulations of Chapter 143 shall be enforced by an agent appointed by the governing body who shall be known as the Zoning Officer.
- B. No land shall be occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, structurally altered or moved until such use or development has been approved by the Zoning Officer and any necessary site plan approval has been obtained as required in § 143-45.
- C. The erection, construction, reconstruction, structural alteration or moving of any building or structure or part thereof shall not be approved by the Zoning Officer unless the plans and intended use indicate that such building or structure is designed and intended to conform in all respects to the provisions of this Article.
- D. The Zoning Officer shall revoke any approval if he finds that actual conditions or construction does not adhere either to the plans or specifications submitted to him or to any other applicable municipal or State Regulations.
- E. Any change in use, including a change from one permitted use to another kind of permitted use in the same zone, or any additional use, will be treated as a new use, and approval by the Zoning Officer shall be required. Prior to the approval of said change in use, all provisions of this chapter shall be complied with the same as if the new use were a new structure or a new use of land.
- F. A record of all zoning approvals shall be kept on file in the office of the Zoning Office and copies shall be furnished upon request of any person having a proprietary or leasehold interest in the building or land affected.
- G. It shall be the further duty of the Zoning Officer to investigate any violations of this Part 5 coming to his attention whether by complaint or arising from his own personal knowledge, and if a violation is found to exist he shall take such action as it seem appropriate in the circumstances.

§ 143-177. Certificates of occupancy.

- A. No land shall be occupied or used and no buildings hereafter erected or altered shall be occupied or used in whole or in part of any purpose whatsoever until a certificate of occupancy shall have been issued by the Construction Code Official, stating that the premises or building complies with all provisions of this Chapter.
- B. No change or extension of use and no alteration of use shall be made in a nonconforming use of premises without a certificate of occupancy having first been issued by the Construction Code Official, indicating that such change, extension or alteration is in conformity with the provisions of this chapter.
- C. Certificates of continuing occupancy for commercial, industrial and residential premises. (1)
- No person shall sell, occupy, or use any portion of a commercial, industrial or residential building after such building or portion thereof has been vacated or sold, or which there shall have been a change in the use or occupancy, until the owner/landlord shall have applied for and secured a certificate of continuing occupancy therefore from the Enforcement Officer of the Borough of Butler.
- (2) Upon receipt by the Enforcement Officer of an application for a certificate of continuing occupancy and payment of the requisite fee, the Enforcement Officer shall conduct an inspection of the premises.
- (3) The Enforcement Officer shall issue a certificate of continuing occupancy upon his inspection and satisfaction that no violations of the Borough of Butler Property Maintenance Code, Land Use Ordinance, State of New Jersey Housing Code, State of New Jersey Smoke Detector regulations, or other Ordinances of the Borough of Butler exist.
- (4) If violations are found to exist, there shall be no new occupancy or use of the premises until compliance with this section has been obtained. If compliance is not obtained within a reasonable time after inspection and notice, the Enforcement Officer is authorized to take appropriate legal action.
- (5) The Enforcement Officer shall provide a form to be completed by each applicant seeking a certificate of continued occupancy. The Enforcement Officer may waive the inspection and fee if any inspection of the same premises has been made within 60 days.
- (6) There is hereby created the position of Enforcement Officer who shall have the authority to make inspections for building, health, fire and safety violations as required by this section, and to otherwise carry out the purpose and intent of this section. The Enforcement Officer shall be appointed by the Borough Administrator.
- (7) There is hereby established a fee for the Continued Certificate of Occupancy inspections which shall be \$75 per inspection.
- D. Any change in use, including a change from one permitted use to another kind of permitted use in the same zone, as well as any change in tenancy in the nonresidential

zones, which changes, alters or enlarges the previous use or which will affect drainage, traffic, parking, sidewalks, paving, landscaping, fencing, sanitary disposal or other similar considerations under the site plan review requirements will be treated as a new use, and a new certificate of occupancy shall be required.

§ 143-178. Violations and penalties.

- A. In case any building or structure is erected, constructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter, the proper local authorities as contained herein or an interested party may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises. Each and every day such violation continues after the expiration of an abatement notice or after initial construction as the case may be shall be deemed a separate and distinct violation.
- B. The owner or user of any building or structure, lot or land or part thereof, where anything in violation of the zoning regulations of this chapter shall be place or shall exist and any architect, builder, contractor, agent, person or corporation employed in connection therewith and who assists in the commission of such violation shall each be guilty of a separate misdemeanor and, upon conviction thereof, shall each be liable to a fine of not more than \$1,000 and/or imprisonment or community service for not more than 90 days.

ARTICLE XXIII

Stormwater Management

[Added 11-20-2007 by Ord. No. 2007-29; amended 2/16/2021 by Ord. No. 2021-2]

§143-179 Scope and Purpose:

- A. Policy Statement. Flood control, groundwater recharge, and pollutant reduction shall be achieved through the use of stormwater management measures, including green infrastructure Best Management Practices (GI BMPs) and nonstructural stormwater management strategies. GI BMPs and low impact development (LID) should be utilized to meet the goal of maintaining natural hydrology to reduce stormwater runoff volume, reduce erosion, encourage infiltration and groundwater recharge, and reduce pollution. GI BMPs and LID should be developed based upon physical site conditions and the origin, nature and the anticipated quantity, or amount, of potential pollutants. Multiple stormwater management BMPs may be necessary to achieve the established performance standards for water quality, quantity, and groundwater recharge.
- B. Purpose. The purpose of this ordinance is to establish minimum stormwater management requirements and controls for “major development,” as defined below in §143-4.
- C. Applicability
- (1) This ordinance shall be applicable to the following major developments:
 - (a) Non-residential major developments; and
 - (b) Aspects of residential major developments that are not pre-empted by the Residential Site Improvement Standards at N.J.A.C. 5:21.
 - (2) This ordinance shall also be applicable to all major developments undertaken by the Borough of Butler

D. Compatibility with Other Permit and Ordinance Requirements. Development approvals issued pursuant to this ordinance are to be considered an integral part of development approvals and do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. In their interpretation and application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. This ordinance is not intended to interfere with, abrogate, or annul any other ordinances, rule or regulation, statute, or other provision of law except that, where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, the more restrictive provisions or higher standards shall control.

§143-180 Design and Performance Standards for Stormwater Management Measures

- A. Stormwater management measures for major development shall be designed to provide erosion control, groundwater recharge, stormwater runoff quantity control, and stormwater runoff quality treatment as follows:
- (1) The minimum standards for erosion control are those established under the Soil and Sediment Control Act, N.J.S.A. 4:24-39 et seq., and implementing rules at N.J.A.C. 2:90.
 - (2) The minimum standards for groundwater recharge, stormwater quality, and stormwater runoff quantity shall be met by incorporating green infrastructure.
- B. The standards in this ordinance apply only to new major development and are intended to minimize the impact of stormwater runoff on water quality and water quantity in receiving water bodies and maintain groundwater recharge. The standards do not apply to new major development to the extent that alternative design and performance standards are applicable under a regional stormwater management plan or Water Quality Management Plan adopted in accordance with Department rules.

§143-181 Stormwater Management Requirements for Major Development

- A. The development shall incorporate a maintenance plan for the stormwater management measures incorporated into the design of a major development in accordance with §143-187.
- B. Stormwater management measures shall avoid adverse impacts of concentrated flow on habitat for threatened and endangered species as documented in the Department's Landscape Project or Natural Heritage Database established under N.J.S.A. 13:1B-15.147 through 15.150, particularly *Helonias bullata* (swamp pink) and/or *Clemmys muhlnebergi* (bog turtle).
- C. The following linear development projects are exempt from the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of §143-181P, Q and R:
- (1) The construction of an underground utility line provided that the disturbed areas are revegetated upon completion;
 - (2) The construction of an aboveground utility line provided that the existing conditions are maintained to the maximum extent practicable; and
 - (3) The construction of a public pedestrian access, such as a sidewalk or trail with a maximum width of 14 feet, provided that the access is made of permeable material.

- D. A waiver from strict compliance from the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity requirements of §143-181O, P, Q and R may be obtained for the enlargement of an existing public roadway or railroad; or the construction or enlargement of a public pedestrian access, provided that the following conditions are met:
- (1) The applicant demonstrates that there is a public need for the project that cannot be accomplished by any other means;
 - (2) The applicant demonstrates through an alternatives analysis, that through the use of stormwater management measures, the option selected complies with the requirements of §143-181O, P, Q and R to the maximum extent practicable;
 - (3) The applicant demonstrates that, in order to meet the requirements of §143-181O, P, Q and R, existing structures currently in use, such as homes and buildings, would need to be condemned; and
 - (4) The applicant demonstrates that it does not own or have other rights to areas, including the potential to obtain through condemnation lands not falling under 143-181D (3) above within the upstream drainage area of the receiving stream, that would provide additional opportunities to mitigate the requirements of §143-181O, P, Q and R that were not achievable onsite.
- E. Tables 1 through 3 below summarize the ability of stormwater best management practices identified and described in the New Jersey Stormwater Best Management Practices Manual to satisfy the green infrastructure, groundwater recharge, stormwater runoff quality and stormwater runoff quantity standards specified in §143-181.O, P, Q and R. When designed in accordance with the most current version of the New Jersey Stormwater Best Management Practices Manual, the stormwater management measures found at N.J.A.C. 7:8-5.2 (f) Tables 5-1, 5-2 and 5-3 and listed below in Tables 1, 2 and 3 are presumed to be capable of providing stormwater controls for the design and performance standards as outlined in the tables below. Upon amendments of the New Jersey Stormwater Best Management Practices to reflect additions or deletions of BMPs meeting these standards, or changes in the presumed performance of BMPs designed in accordance with the New Jersey Stormwater BMP Manual, the Department shall publish in the New Jersey Registers a notice of administrative change revising the applicable table. The most current version of the BMP Manual can be found on the Department's website at: https://njstormwater.org/bmp_manual2.htm.

- F. Where the BMP tables in the NJ Stormwater Management Rule are different due to updates or amendments with the tables in this ordinance the BMP Tables in the Stormwater Management rule at N.J.A.C. 7:8-5.2(f) shall take precedence.

<u>Table 1</u> <u>Green Infrastructure BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or Stormwater Runoff Quantity</u>				
<u>Best Management Practice</u>	<u>Stormwater Runoff Quality TSS Removal Rate</u>	<u>Stormwater Runoff Quantity</u>	<u>Groundwater Recharge</u>	<u>Minimum Separation from Seasonal High</u>
<u>Cistern</u>	<u>0</u>	<u>Yes</u>	<u>No</u>	<u>=</u>
<u>Dry Well^(a)</u>	<u>0</u>	<u>No</u>	<u>Yes</u>	<u>2</u>
<u>Grass Swale</u>	<u>50 or less</u>	<u>No</u>	<u>No</u>	<u>2^(e)</u> <u>1^(f)</u>
<u>Green Roof</u>	<u>0</u>	<u>Yes</u>	<u>No</u>	<u>=</u>
<u>Manufactured Treatment</u>	<u>50 or 80</u>	<u>No</u>	<u>No</u>	<u>Dependent upon the device</u>
<u>Pervious Paving System^(a)</u>	<u>80</u>	<u>Yes</u>	<u>Yes^(b)</u> <u>No^(c)</u>	<u>2^(b)</u> <u>1^(c)</u>
<u>Small-Scale Bioretention</u>	<u>80 or 90</u>	<u>Yes</u>	<u>Yes^(b)</u> <u>No^(c)</u>	<u>2^(b)</u> <u>1^(c)</u>
<u>Small-Scale Infiltration Basin^(a)</u>	<u>80</u>	<u>Yes</u>	<u>Yes</u>	<u>2</u>
<u>Small-Scale Sand</u>	<u>80</u>	<u>Yes</u>	<u>Yes</u>	<u>2</u>
<u>Vegetative Filter</u>	<u>60-80</u>	<u>No</u>	<u>No</u>	<u>=</u>

(Notes corresponding to annotations ^(a) through ^(g) are found below Table 3)

<u>Table 2</u> <u>Green Infrastructure BMPs for Stormwater Runoff Quantity</u> <u>(or for Groundwater Recharge and/or Stormwater Runoff Quality</u> <u>with a Waiver or Variance from N.J.A.C. 7:8-5.3)</u>				
<u>Best Management Practice</u>	<u>Stormwater Runoff Quality TSS Removal Rate</u>	<u>Stormwater Runoff Quantity</u>	<u>Groundwater Recharge</u>	<u>Minimum Separation from Seasonal High</u>
<u>Bioretention System</u>	<u>80 or 90</u>	<u>Yes</u>	<u>Yes^(b)</u> <u>No^(c)</u>	<u>2^(b)</u> <u>1^(c)</u>
<u>Infiltration Basin</u>	<u>80</u>	<u>Yes</u>	<u>Yes</u>	<u>2</u>
<u>Sand Filter^(b)</u>	<u>80</u>	<u>Yes</u>	<u>Yes</u>	<u>2</u>
<u>Standard Constructed Wetland</u>	<u>90</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>
<u>Wet Pond^(d)</u>	<u>50-90</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>

(Notes corresponding to annotations ^(b) through ^(d) are found below Table 3)

<u>Table 3</u> <u>BMPs for Groundwater Recharge, Stormwater Runoff Quality, and/or</u> <u>Stormwater Runoff Quantity</u> <u>only with a Waiver or Variance from N.J.A.C. 7:8-5.3</u>				
<u>Best Management Practice</u>	<u>Stormwater Runoff Quality TSS Removal Rate</u>	<u>Stormwater Runoff Quantity</u>	<u>Groundwater Recharge</u>	<u>Minimum Separation from Seasonal High</u>
<u>Blue Roof</u>	<u>0</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>
<u>Extended Detention Basin</u>	<u>40-60</u>	<u>Yes</u>	<u>No</u>	<u>1</u>
<u>Manufactured Treatment Device^(h)</u>	<u>50 or 80</u>	<u>No</u>	<u>No</u>	<u>Dependent upon the device</u>
<u>Sand Filter^(c)</u>	<u>80</u>	<u>Yes</u>	<u>No</u>	<u>1</u>
<u>Subsurface Gravel Wetland</u>	<u>90</u>	<u>No</u>	<u>No</u>	<u>1</u>
<u>Wet Pond</u>	<u>50-90</u>	<u>Yes</u>	<u>No</u>	<u>N/A</u>

Notes to Tables 1, 2, and 3:

- (a) subject to the applicable contributory drainage area limitation specified at §143-181O (2);
- (b) designed to infiltrate into the subsoil;
- (c) designed with underdrains;
- (d) designed to maintain at least a 10-foot wide area of native vegetation along at least 50 percent of the shoreline and to include a stormwater runoff retention component designed to capture stormwater runoff for beneficial reuse, such as irrigation;
- (e) designed with a slope of less than two percent;
- (f) designed with a slope of equal to or greater than two percent;
- (g) manufactured treatment devices that meet the definition of green infrastructure at §143-4;
- (h) manufactured treatment devices that do not meet the definition of green infrastructure at §143-4.

- G. An alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate may be used if the design engineer demonstrates the capability of the proposed alternative stormwater management measure and/or the validity of the alternative rate or method to the municipality. A copy of any approved alternative stormwater management measure, alternative removal rate, and/or alternative method to calculate the removal rate shall be provided to the Department in accordance with §143-183B. Alternative stormwater management measures may be used to satisfy the requirements at §143-181O only if the measures meet the definition of green infrastructure at §143-4. Alternative stormwater management measures that function in a similar manner to a BMP listed at Section O(2) are subject to the contributory drainage area limitation specified at Section O(2) for that similarly functioning BMP. Alternative stormwater management measures approved in accordance with this subsection that do not function in a similar manner to any BMP listed at Section O(2) shall have a contributory drainage area less than or equal to 2.5 acres, except for alternative stormwater management measures that function similarly to cisterns, grass swales, green roofs, standard constructed wetlands, vegetative filter strips, and wet ponds, which are not subject to a contributory drainage area limitation. Alternative measures that function similarly to standard constructed wetlands or wet ponds shall not be used for compliance with the stormwater runoff quality standard unless a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with §143-181.D is granted from §143-181.O.
- H. Whenever the stormwater management design includes one or more BMPs that will infiltrate stormwater into subsoil, the design engineer shall assess the hydraulic impact on the groundwater table and design the site, so as to avoid adverse hydraulic impacts. Potential adverse hydraulic impacts include, but are not limited to, exacerbating a naturally or seasonally high water table, so as to cause surficial ponding, flooding of basements, or interference with the proper operation of subsurface sewage disposal systems or other subsurface structures within the zone of influence of the groundwater mound, or interference with the proper functioning of the stormwater management measure itself.
- I. Design standards for stormwater management measures are as follows:
- (1) Stormwater management measures shall be designed to take into account the existing site conditions, including, but not limited to, environmentally sensitive areas; wetlands; flood-prone areas; slopes; depth to seasonal high water table; soil type, permeability, and texture; drainage area and drainage patterns; and the presence of solution-prone carbonate rocks (limestone);
 - (2) Stormwater management measures shall be designed to minimize maintenance, facilitate maintenance and repairs, and ensure proper functioning. Trash racks shall be installed at the intake to the outlet structure, as appropriate, and shall have parallel bars with one-inch spacing between the bars to the elevation of the water quality design storm. For elevations higher than the water quality design storm, the parallel bars at the outlet structure shall be spaced no greater than one-third the width of the diameter of the orifice or one-third the width of the weir, with a minimum spacing between bars of one inch and a maximum spacing between bars of six inches. In addition, the design of trash racks must comply with the requirements of §143-185C;
 - (3) Stormwater management measures shall be designed, constructed, and installed to be strong, durable, and corrosion resistant. Measures that are consistent with the relevant portions of the Residential Site Improvement Standards at N.J.A.C. 5:21-7.3, 7.4, and 7.5 shall be deemed to meet this requirement;
 - (4) Stormwater management BMPs shall be designed to meet the minimum safety standards for stormwater management BMPs at §143-185; and
 - (5) The size of the orifice at the intake to the outlet from the stormwater management BMP shall be a minimum of two and one-half inches in diameter.

- J. Manufactured treatment devices may be used to meet the requirements of this subchapter, provided the pollutant removal rates are verified by the New Jersey Corporation for Advanced Technology and certified by the Department. Manufactured treatment devices that do not meet the definition of green infrastructure at §143-4 may be used only under the circumstances described at §143-181O (4).
- K. Any application for a new agricultural development that meets the definition of major development at §143-4 shall be submitted to the Soil Conservation District for review and approval in accordance with the requirements at §143-181O, P, Q and R and any applicable Soil Conservation District guidelines for stormwater runoff quantity and erosion control. For purposes of this subsection, "agricultural development" means land uses normally associated with the production of food, fiber, and livestock for sale. Such uses do not include the development of land for the processing or sale of food and the manufacture of agriculturally related products.
- L. If there is more than one drainage area, the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at §143-181P, Q and R shall be met in each drainage area, unless the runoff from the drainage areas converge onsite and no adverse environmental impact would occur as a result of compliance with any one or more of the individual standards being determined utilizing a weighted average of the results achieved for that individual standard across the affected drainage areas.
- M. Any stormwater management measure authorized under the municipal stormwater management plan or ordinance shall be reflected in a deed notice recorded in the Morris County Clerk's Office. A form of deed notice shall be submitted to the municipality for approval prior to filing. The deed notice shall contain a description of the stormwater management measure(s) used to meet the green infrastructure, groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at §143-181O, P, Q and R and shall identify the location of the stormwater management measure(s) in NAD 1983 State Plane New Jersey FIPS 2900 US Feet or Latitude and Longitude in decimal degrees. The deed notice shall also reference the maintenance plan required to be recorded upon the deed pursuant to §143-187B (5). Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality. Proof that the required information has been recorded on the deed shall be in the form of either a copy of the complete recorded document or a receipt from the clerk or other proof of recordation provided by the recording office. However, if the initial proof provided to the municipality is not a copy of the complete recorded document, a copy of the complete recorded document shall be provided to the municipality within 180 calendar days of the authorization granted by the municipality.
- N. A stormwater management measure approved under the municipal stormwater management plan or ordinance may be altered or replaced with the approval of the municipality, if the municipality determines that the proposed alteration or replacement meets the design and performance standards pursuant to §143-181 of this ordinance and provides the same level of stormwater management as the previously approved stormwater management measure that is being altered or replaced. If an alteration or replacement is approved, a revised deed notice shall be submitted to the municipality for approval and subsequently recorded with the Morris County Clerk's Office and shall contain a description and location of the stormwater management measure, as well as reference to the maintenance plan, in accordance with M above. Prior to the commencement of construction, proof that the above required deed notice has been filed shall be submitted to the municipality in accordance with M above.

O. Green Infrastructure Standards

- (1) This subsection specifies the types of green infrastructure BMPs that may be used to satisfy the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards.
- (2) To satisfy the groundwater recharge and stormwater runoff quality standards at §143-181P and Q, the design engineer shall utilize green infrastructure BMPs identified in Table 1 at §143-181F and/or an alternative stormwater management measure approved in accordance with §143-181G. The following green infrastructure BMPs are subject to the following maximum contributory drainage area limitations:

<u>Best Management Practice</u>	<u>Maximum Contributory Drainage Area</u>
<u>Dry Well</u>	<u>1 acre</u>
<u>Manufactured Treatment Device</u>	<u>2.5 acres</u>
<u>Pervious Pavement Systems</u>	<u>Area of additional inflow cannot exceed three times the area occupied by the BMP</u>
<u>Small-scale Bioretention Systems</u>	<u>2.5 acres</u>
<u>Small-scale Infiltration Basin</u>	<u>2.5 acres</u>
<u>Small-scale Sand Filter</u>	<u>2.5 Acres</u>

- (3) To satisfy the stormwater runoff quantity standards at §143-181R, the design engineer shall utilize BMPs from Table 1 or from Table 2 and/or an alternative stormwater management measure approved in accordance with §143-181G.
- (4) If a variance in accordance with N.J.A.C. 7:8-4.6 or a waiver from strict compliance in accordance with §143-181D is granted from the requirements of this subsection, then BMPs from Table 1, 2, or 3, and/or an alternative stormwater management measure approved in accordance with §143-181G may be used to meet the groundwater recharge, stormwater runoff quality, and stormwater runoff quantity standards at §143-181P, Q and R.
- (5) For separate or combined storm sewer improvement projects, such as sewer separation, undertaken by a government agency or public utility (for example, a sewerage company), the requirements of this subsection shall only apply to areas owned in fee simple by the government agency or utility, and areas within a right-of-way or easement held or controlled by the government agency or utility; the entity shall not be required to obtain additional property or property rights to fully satisfy the requirements of this subsection. Regardless of the amount of area of a separate or combined storm sewer improvement project subject to the green infrastructure requirements of this subsection, each project shall fully comply with the applicable groundwater recharge, stormwater runoff quality control, and stormwater runoff quantity standards at §143-181P, Q and R, unless the project is granted a waiver from strict compliance in accordance with §143-181D.

P. Groundwater Recharge Standards

- (1) This subsection contains the minimum design and performance standards for groundwater recharge as follows:
- (2) The design engineer shall, using the assumptions and factors for stormwater runoff and groundwater recharge calculations at §143-182, either:
 - (a) Demonstrate through hydrologic and hydraulic analysis that the site and its stormwater management measures maintain 100 percent of the average annual pre-construction groundwater recharge volume for the site; or
 - (b) Demonstrate through hydrologic and hydraulic analysis that the increase of stormwater runoff volume from pre-construction to post-construction for the 2-year storm is infiltrated.
- (3) This groundwater recharge requirement does not apply to projects within the “urban redevelopment area,” or to projects subject to (4) below.
- (4) The following types of stormwater shall not be recharged:
 - (a) Stormwater from areas of high pollutant loading. High pollutant loading areas are areas in industrial and commercial developments where solvents and/or petroleum products are loaded/unloaded, stored, or applied, areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than “reportable quantities” as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; areas where recharge would be inconsistent with Department approved remedial action work plan or landfill closure plan and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities; and
 - (b) Industrial stormwater exposed to “source material.” “Source material” means any material(s) or machinery, located at an industrial facility, that is directly or indirectly related to process, manufacturing or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

Q. Stormwater Runoff Quality Standards

- (1) This subsection contains the minimum design and performance standards to control stormwater runoff quality impacts of major development. Stormwater runoff quality standards are applicable when the major development results in an increase of one-quarter acre or more of regulated motor vehicle surface.
- (2) Stormwater management measures shall be designed to reduce the post-construction load of total suspended solids (TSS) in stormwater runoff generated from the water quality design storm as follows:

- (a) Eighty percent TSS removal of the anticipated load, expressed as an annual average shall be achieved for the stormwater runoff from the net increase of motor vehicle surface.
 - (b) If the surface is considered regulated motor vehicle surface because the water quality treatment for an area of motor vehicle surface that is currently receiving water quality treatment either by vegetation or soil, by an existing stormwater management measure, or by treatment at a wastewater treatment plant is to be modified or removed, the project shall maintain or increase the existing TSS removal of the anticipated load expressed as an annual average.
- (3) The requirement to reduce TSS does not apply to any stormwater runoff in a discharge regulated under a numeric effluent limitation for TSS imposed under the New Jersey Pollutant Discharge Elimination System (NJPDES) rules, N.J.A.C. 7:14A, or in a discharge specifically exempt under a NJPDES permit from this requirement. Every major development, including any that discharge into a combined sewer system, shall comply with 2 above, unless the major development is itself subject to a NJPDES permit with a numeric effluent limitation for TSS or the NJPDES permit to which the major development is subject exempts the development from a numeric effluent limitation for TSS.
- (4) The water quality design storm is 1.25 inches of rainfall in two hours. Water quality calculations shall take into account the distribution of rain from the water quality design storm, as reflected in Table 4, below. The calculation of the volume of runoff may take into account the implementation of stormwater management measures.

Table 4 - Water Quality Design Storm Distribution

Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)	Time (Minutes)	Cumulative Rainfall (Inches)
1	0.00166	41	0.1728	81	1.0906
2	0.00332	42	0.1796	82	1.0972
3	0.00498	43	0.1864	83	1.1038
4	0.00664	44	0.1932	84	1.1104
5	0.00830	45	0.2000	85	1.1170
6	0.00996	46	0.2117	86	1.1236
7	0.01162	47	0.2233	87	1.1302
8	0.01328	48	0.2350	88	1.1368
9	0.01494	49	0.2466	89	1.1434
10	0.01660	50	0.2583	90	1.1500
11	0.01828	51	0.2783	91	1.1550
12	0.01996	52	0.2983	92	1.1600
13	0.02164	53	0.3183	93	1.1650
14	0.02332	54	0.3383	94	1.1700
15	0.02500	55	0.3583	95	1.1750
16	0.03000	56	0.4116	96	1.1800
17	0.03500	57	0.4650	97	1.1850
18	0.04000	58	0.5183	98	1.1900
19	0.04500	59	0.5717	99	1.1950
20	0.05000	60	0.6250	100	1.2000
21	0.05500	61	0.6783	101	1.2050
22	0.06000	62	0.7317	102	1.2100
23	0.06500	63	0.7850	103	1.2150
24	0.07000	64	0.8384	104	1.2200
25	0.07500	65	0.8917	105	1.2250
26	0.08000	66	0.9117	106	1.2267
27	0.08500	67	0.9317	107	1.2284
28	0.09000	68	0.9517	108	1.2300
29	0.09500	69	0.9717	109	1.2317
30	0.10000	70	0.9917	110	1.2334
31	0.10660	71	1.0034	111	1.2351
32	0.11320	72	1.0150	112	1.2367
33	0.11980	73	1.0267	113	1.2384
34	0.12640	74	1.0383	114	1.2400
35	0.13300	75	1.0500	115	1.2417
36	0.13960	76	1.0568	116	1.2434
37	0.14620	77	1.0636	117	1.2450
38	0.15280	78	1.0704	118	1.2467
39	0.15940	79	1.0772	119	1.2483
40	0.16600	80	1.0840	120	1.2500

- (5) If more than one BMP in series is necessary to achieve the required 80 percent TSS reduction for a site, the applicant shall utilize the following formula to calculate TSS reduction:

$$R = A + B - (A \times B) / 100,$$

Where

R = total TSS Percent Load Removal from application of both BMPs, and

A = the TSS Percent Removal Rate applicable to the first BMP

B = the TSS Percent Removal Rate applicable to the second BMP.

- (6) Stormwater management measures shall also be designed to reduce, to the maximum extent feasible, the post-construction nutrient load of the anticipated load from the developed site in stormwater runoff generated from the water quality design storm. In achieving reduction of nutrients to the maximum extent feasible, the design of the site shall include green infrastructure BMPs that optimize nutrient removal while still achieving the performance standards in §143-181P, Q and R.
- (7) In accordance with the definition of FW1 at N.J.A.C. 7:9B-1.4, stormwater management measures shall be designed to prevent any increase in stormwater runoff to waters classified as FW1.
- (8) The Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-4.1(c)1 establish 300-foot riparian zones along Category One waters, as designated in the Surface Water Quality Standards at N.J.A.C. 7:9B, and certain upstream tributaries to Category One waters. A person shall not undertake a major development that is located within or discharges into a 300-foot riparian zone without prior authorization from the Department under N.J.A.C. 7:13.
- (9) Pursuant to the Flood Hazard Area Control Act Rules at N.J.A.C. 7:13-11.2(j)3.i, runoff from the water quality design storm that is discharged within a 300-foot riparian zone shall be treated in accordance with this subsection to reduce the post-construction load of total suspended solids by 95 percent of the anticipated load from the developed site, expressed as an annual average.
- (10) This stormwater runoff quality standards do not apply to the construction of one individual single-family dwelling, provided that it is not part of a larger development or subdivision that has received preliminary or final site plan approval prior to December 3, 2018, and that the motor vehicle surfaces are made of permeable material(s) such as gravel, dirt, and/or shells.

R. Stormwater Runoff Quantity Standards

- (1) This subsection contains the minimum design and performance standards to control stormwater runoff quantity impacts of major development.

- (2) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at §143-4, complete one of the following:
 - (a) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the 2-, 10-, and 100-year storm events do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
 - (b) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the 2-, 10- and 100-year storm events and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;
 - (c) Design stormwater management measures so that the post-construction peak runoff rates for the 2-, 10- and 100-year storm events are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed.
- (3) The stormwater runoff quantity standards shall be applied at the site's boundary to each abutting lot, roadway, watercourse, or receiving storm sewer system.

§143-182 Calculation of Stormwater Runoff and Groundwater Recharge:

A. Stormwater runoff shall be calculated in accordance with the following:

- (1) The design engineer shall calculate runoff using one of the following methods:
 - (a) The USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in Chapters 7, 9, 10, 15 and 16 Part 630, Hydrology National Engineering Handbook, incorporated herein by reference as amended and supplemented. This methodology is additionally described in *Technical Release 55 - Urban Hydrology for Small Watersheds* (TR-55), dated June 1986, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the Natural Resources Conservation Service website at:
https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1044171.pdf
or at United States Department of Agriculture Natural Resources Conservation Service, 220 Davison Avenue, Somerset, New Jersey 08873; or
 - (b) The Rational Method for peak flow and the Modified Rational Method for hydrograph computations. The rational and modified rational methods are described in "Appendix A-9 Modified Rational Method" in the Standards for Soil Erosion and Sediment Control in New Jersey, January 2014. This document is available from the State Soil Conservation Committee or any of the Soil Conservation Districts listed at N.J.A.C. 2:90-1.3(a)3. The location, address, and telephone number for each Soil Conservation District is available from the State Soil Conservation Committee, PO Box 330, Trenton, New Jersey 08625. The document is also available at:
<http://www.nj.gov/agriculture/divisions/anr/pdf/2014NJSoilErosionControlStandardsComplete.pdf>.

- (2) For the purpose of calculating runoff coefficients and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term “runoff coefficient” applies to both the NRCS methodology above at §143-182A (1) (a) and the Rational and Modified Rational Methods at §143-182A (1) (b). A runoff coefficient or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover have existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).
- (3) In computing pre-construction stormwater runoff, the design engineer shall account for all significant land features and structures, such as ponds, wetlands, depressions, hedgerows, or culverts, that may reduce pre-construction stormwater runoff rates and volumes.
- (4) In computing stormwater runoff from all design storms, the design engineer shall consider the relative stormwater runoff rates and/or volumes of pervious and impervious surfaces separately to accurately compute the rates and volume of stormwater runoff from the site. To calculate runoff from unconnected impervious cover, urban impervious area modifications as described in the *NRCS Technical Release 55 – Urban Hydrology for Small Watersheds* or other methods may be employed.
- (5) If the invert of the outlet structure of a stormwater management measure is below the flood hazard design flood elevation as defined at N.J.A.C. 7:13, the design engineer shall take into account the effects of tailwater in the design of structural stormwater management measures.

B. Groundwater recharge may be calculated in accordance with the following:

- (1) The New Jersey Geological Survey Report GSR-32, A Method for Evaluating Groundwater-Recharge Areas in New Jersey, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the New Jersey Stormwater Best Management Practices Manual; at the New Jersey Geological Survey website at: <https://www.nj.gov/dep/njgs/pricelst/gsreport/gsr32.pdf> or at New Jersey Geological and Water Survey, 29 Arctic Parkway, PO Box 420 Mail Code 29-01, Trenton, New Jersey 08625-0420.

§143-183 Sources for Technical Guidance:

- A. Technical guidance for stormwater management measures can be found in the documents listed below, which are available to download from the Department’s website at: http://www.nj.gov/dep/stormwater/bmp_manual2.htm.

- (1) Guidelines for stormwater management measures are contained in the New Jersey Stormwater Best Management Practices Manual, as amended and supplemented. Information is provided on stormwater management measures such as, but not limited to, those listed in Tables 1, 2, and 3.
- (2) Additional maintenance guidance is available on the Department's website at: https://www.njstormwater.org/maintenance_guidance.htm.

B. Submissions required for review by the Department should be mailed to:

The Division of Water Quality, New Jersey Department of Environmental Protection,
Mail Code 401-02B, PO Box 420, Trenton, New Jersey 08625-0420.

§143-184 Solids and Floatable Materials Control Standards:

- A. Site design features identified under §143-181F above, or alternative designs in accordance with §143-181G above, to prevent discharge of trash and debris from drainage systems shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see §143-184A (2) below.
 - (1) Design engineers shall use one of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - (a) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines; or
 - (b) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension. Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater system floors used to collect stormwater from the surface into a storm drain or surface water body.
 - (c) For curb-opening inlets, including curb-opening inlets in combination inlets, the clear space in that curb opening, or each individual clear space if the curb opening has two or more clear spaces, shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

(2) The standard in A (1) above does not apply:

- (a) Where each individual clear space in the curb opening in existing curb-opening inlet does not have an area of more than nine (9.0) square inches;
- (b) Where the municipality agrees that the standards would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets;
- (c) Where flows from the water quality design storm as specified in N.J.A.C. 7:8 are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

- [1] A rectangular space four and five-eighths (4.625) inches long and one and one-half (1.5) inches wide (this option does not apply for outfall netting facilities); or
- [2] A bar screen having a bar spacing of 0.5 inches.

Note that these exemptions do not authorize any infringement of requirements in the Residential Site Improvement Standards for bicycle safe grates in new residential development (N.J.A.C. 5:21-4.18(b)2 and 7.4(b)1).

- (d) Where flows are conveyed through a trash rack that has parallel bars with one-inch (1 inch) spacing between the bars, to the elevation of the Water Quality Design Storm as specified in N.J.A.C. 7:8; or
- (e) Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

§143-185 Safety Standards for Stormwater Management Basins:

- A. This section sets forth requirements to protect public safety through the proper design and operation of stormwater management BMPs. This section applies to any new stormwater management BMP.
- B. The provisions of this section are not intended to preempt more stringent municipal or county safety requirements for new or existing stormwater management BMPs. Municipal and county stormwater management plans and ordinances may, pursuant to their authority, require existing stormwater management BMPs to be retrofitted to meet one or more of the safety standards in §143-185C (1), C (2), and (3) for trash racks, overflow grates, and escape provisions at outlet structures.
- C. Requirements for Trash Racks, Overflow Grates and Escape Provisions
 - (1) A trash rack is a device designed to catch trash and debris and prevent the clogging of outlet structures. Trash racks shall be installed at the intake to the outlet from the Stormwater management BMP to ensure proper functioning of the BMP outlets in accordance with the following:

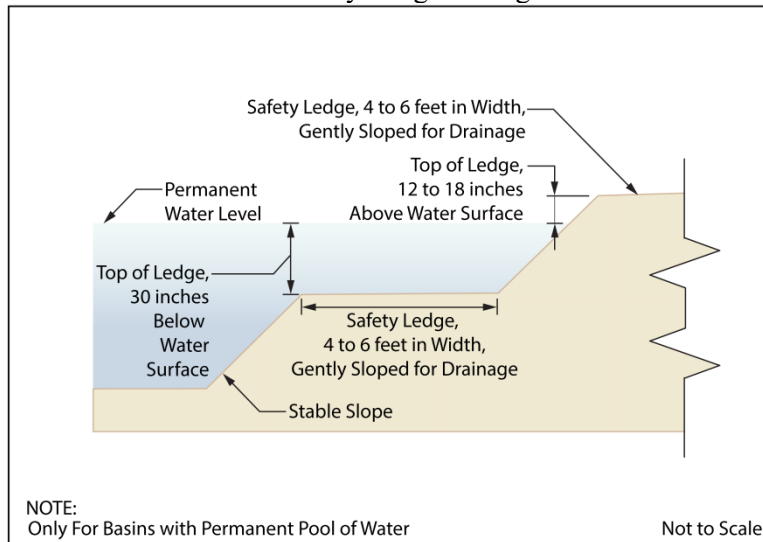
- (a) The trash rack shall have parallel bars, with no greater than six-inch spacing between the bars;
 - (b) The trash rack shall be designed so as not to adversely affect the hydraulic performance of the outlet pipe or structure;
 - (c) The average velocity of flow through a clean trash rack is not to exceed 2.5 feet per second under the full range of stage and discharge. Velocity is to be computed on the basis of the net area of opening through the rack; and
 - (d) The trash rack shall be constructed of rigid, durable, and corrosion resistant material and designed to withstand a perpendicular live loading of 300 pounds per square foot.
- (2) An overflow grate is designed to prevent obstruction of the overflow structure. If an outlet structure has an overflow grate, such grate shall meet the following requirements:
- (a) The overflow grate shall be secured to the outlet structure but removable for emergencies and maintenance.
 - (b) The overflow grate spacing shall be no less than two inches across the smallest dimension
 - (c) The overflow grate shall be constructed and installed to be rigid, durable, and corrosion resistant, and shall be designed to withstand a perpendicular live loading of 300 pounds per square foot.
- (3) Stormwater management BMPs shall include escape provisions as follows:
- (a) If a stormwater management BMP has an outlet structure, escape provisions shall be incorporated in or on the structure. Escape provisions include the installation of permanent ladders, steps, rungs, or other features that provide easily accessible means of egress from stormwater management BMPs. With the prior approval of the municipality pursuant to §143-185C, a free-standing outlet structure may be exempted from this requirement;
 - (b) Safety ledges shall be constructed on the slopes of all new stormwater management BMPs having a permanent pool of water deeper than two and one-half feet. Safety ledges shall be comprised of two steps. Each step shall be four to six feet in width. One step shall be located approximately two and one-half feet below the permanent water surface, and the second step shall be located one to one and one-half feet above the permanent water surface. See §143-185C for an illustration of safety ledges in a stormwater management BMP; and
 - (c) In new stormwater management BMPs, the maximum interior slope for an earthen dam, embankment, or berm shall not be steeper than three horizontal to one vertical.

D. Variance or Exemption from Safety Standard

- (1) A variance or exemption from the safety standards for stormwater management BMPs may be granted only upon a written finding by the municipality that the variance or exemption will not constitute a threat to public safety.

E. Safety Ledge Illustration

Elevation View –Basin Safety Ledge Configuration

**§143-186 Requirements for a Site Development Stormwater Plan:****A. Submission of Site Development Stormwater Plan**

- (1) Whenever an applicant seeks municipal approval of a development subject to this ordinance, the applicant shall submit all of the required components of the Checklist for the Site Development Stormwater Plan at §143-186C below as part of the submission of the application for approval.
- (2) The applicant shall demonstrate that the project meets the standards set forth in this ordinance.
- (3) The applicant shall submit four copies of the materials listed in the checklist for site development stormwater plans in accordance with §143-186C of this ordinance.

B. Site Development Stormwater Plan Approval

- (1) The applicant's Site Development project shall be reviewed as a part of the review process by the municipal board or official from which municipal approval is sought. That municipal board or official shall consult the engineer retained by the Planning Board and/or Zoning Board of Adjustment (as appropriate) to determine if the project meets the standards set forth in this ordinance.

C. Submission of Site Development Stormwater Plan. The following information shall be required:

- (1) Topographic Base Map. The reviewing engineer may require upstream tributary drainage system information as necessary. It is recommended that the topographic base map of the site be submitted which extends a minimum of 200 feet beyond the limits of the proposed development, at a scale of one inch equals to 200 feet or greater, showing 2-foot contour intervals. The map as appropriate may indicate the following: existing surface water drainage, shorelines, steep slopes, soils, erodible soils, perennial or intermittent streams that drain into or upstream of the Category One waters, wetlands and flood plains along with their appropriate buffer strips, marshlands and other wetlands, pervious or vegetative surfaces, existing man-made structures, roads, bearing and distances of property lines, and significant natural and manmade features not otherwise shown.
- (2) Environmental Site Analysis. A written and graphic description of the natural and man-made features of the site and its surroundings should be submitted. This description should include a discussion of soil conditions, slopes, wetlands, waterways and vegetation on the site. Particular attention should be given to unique, unusual, or environmentally sensitive features and to those that provide particular opportunities or constraints for development.
- (3) Project Description and Site Plans. A map (or maps) at the scale of the topographical base map indicating the location of existing and proposed buildings roads, parking areas, utilities, structural facilities for stormwater management and sediment control, and other permanent structures. The map(s) shall also clearly show areas where alterations will occur in the natural terrain and cover, including lawns and other landscaping, and seasonal high groundwater elevations. A written description of the site plan and justification for proposed changes in natural conditions shall also be provided.
- (4) Land Use Planning and Source Control Plan. This plan shall provide a demonstration of how the goals and standards of Sections §143-180 through §143-182 are being met. The focus of this plan shall be to describe how the site is being developed to meet the objective of controlling groundwater recharge, stormwater quality and stormwater quantity problems at the source by land management and source controls whenever possible.
- (5) Stormwater Management Facilities Map. The following information, illustrated on a map of the same scale as the topographic base map, shall be included:
 - (a) Total area to be disturbed, paved or built upon, proposed surface contours, land area to be occupied by the stormwater management facilities and the type of vegetation thereon, and details of the proposed plan to control and dispose of stormwater.
 - (b) Details of all stormwater management facility designs, during and after construction, including discharge provisions, discharge capacity for each outlet at different levels of detention and emergency spillway provisions with maximum discharge capacity of each spillway.

- (6) Calculations
 - (a) Comprehensive hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in §143-181 of this ordinance.
 - (b) When the proposed stormwater management control measures depend on the hydrologic properties of soils or require certain separation from the seasonal high water table, then a soils report shall be submitted. The soils report shall be based on onsite boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soils present at the location of the control measure.
- (7) Maintenance and Repair Plan
 - (a) The design and planning of the stormwater management facility shall meet the maintenance requirements of §143-187.
- (8) Waiver from Submission Requirements
 - (a) The municipal official or board reviewing an application under this ordinance may, in consultation with the municipality's review engineer, waive submission of any of the requirements in §143-186C (1) through §143-186C (6) of this ordinance when it can be demonstrated that the information requested is impossible to obtain or it would create a hardship on the applicant to obtain and its absence will not materially affect the review process.

§143-187 Maintenance and Repair:

A. Applicability

Projects subject to review as in §143-1C of this ordinance shall comply with the requirements of §143-187B and §143-187C.

B. General Maintenance

- (1) The design engineer shall prepare a maintenance plan for the stormwater management measures incorporated into the design of a major development.
- (2) The maintenance plan shall contain specific preventative maintenance tasks and schedules; cost estimates, including estimated cost of sediment, debris, or trash removal; and the name, address, and telephone number of the person or persons responsible for preventative and corrective maintenance (including replacement). The plan shall contain information on BMP location, design, ownership, maintenance tasks and frequencies, and other details as specified in Chapter 8 of the NJ BMP Manual, as well as the tasks specific to the type of BMP, as described in the applicable chapter containing design specifics.
- (3) If the maintenance plan identifies a person other than the property owner (for example, a developer, a public agency or homeowners' association) as having the responsibility for maintenance, the plan shall include documentation of such person's or entity's agreement to assume this responsibility, or of the owner's obligation to dedicate a stormwater management facility to such person under an applicable ordinance or regulation.

- (4) Responsibility for maintenance shall not be assigned or transferred to the owner or tenant of an individual property in a residential development or project, unless such owner or tenant owns or leases the entire residential development or project. The individual property owner may be assigned incidental tasks, such as weeding of a green infrastructure BMP, provided the individual agrees to assume these tasks; however, the individual cannot be legally responsible for all of the maintenance required.
- (5) If the party responsible for maintenance identified under §143-187B (3) above is not a public agency, the maintenance plan and any future revisions based on §143-187B (7) below shall be recorded upon the deed of record for each property on which the maintenance described in the maintenance plan must be undertaken.
- (6) Preventative and corrective maintenance shall be performed to maintain the functional parameters (storage volume, infiltration rates, inflow/outflow capacity, etc.) of the stormwater management measure, including, but not limited to, repairs or replacement to the structure; removal of sediment, debris, or trash; restoration of eroded areas; snow and ice removal; fence repair or replacement; restoration of vegetation; and repair or replacement of non-vegetated linings.
- (7) The party responsible for maintenance identified under §143-187B (3) above shall perform all of the following requirements:
 - (a) maintain a detailed log of all preventative and corrective maintenance for the structural stormwater management measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance-related work orders;
 - (b) evaluate the effectiveness of the maintenance plan at least once per year and adjust the plan and the deed as needed; and
 - (c) retain and make available, upon request by any public entity with administrative, health, environmental, or safety authority over the site, the maintenance plan and the documentation required by §143-187B (6) and §143-187B (7) above.
 - (d) Beginning on January 1, 2020, persons responsible for maintenance under Subsection B (2) above shall make annual submissions to the municipality, by January 1, containing excerpts of the detailed log of all preventative and corrective maintenance that was performed for the calendar year that just ended for all structural stormwater measures incorporated into the design of the development, including a record of all inspections and copies of all maintenance related work orders.
- (8) The requirements of §143-187B (3) and §143-187B (4) do not apply to stormwater management facilities that are dedicated to and accepted by the municipality or another governmental agency, subject to all applicable municipal stormwater general permit conditions, as issued by the Department.
- (9) In the event that the stormwater management facility becomes a danger to public safety or public health, or if it is in need of maintenance or repair, the municipality shall so notify the responsible person in writing. Upon receipt of that notice, the responsible person shall have fourteen (14) days to effect maintenance and repair of the facility in a manner that is approved by the municipal engineer or his designee. The municipality, in its discretion, may extend the time allowed for effecting maintenance and repair for good cause. If the responsible person fails or refuses to perform such maintenance and repair, the municipality or County may immediately proceed to do so and shall bill the cost thereof to the responsible person. Nonpayment of such bill may result in a lien on the property.

- (10) Nothing in this subsection shall preclude the municipality in which the major development is located from requiring the posting of a performance or maintenance guarantee in accordance with N.J.S.A. 40:55D-53

ARTICLE XXIV

Stormwater Management for Minor Subdivisions and Individual Single-Family Properties

[Added 11-20-2007 by Ord. No. 2007-29]

§ 143-188. Purpose.

It is the purpose of this article to establish minimum stormwater management requirements and controls for development not regulated by Chapters 143.28 or 143.35.

§ 143-189. Applicability.

This ordinance shall be applicable to:

- A. All the development pertaining to minor subdivisions approved by the Planning Board or Zoning Board of Adjustment.
- B. All applications of building permits for enlargement or addition to an existing single family residence.
- C. Any application whereby additional impervious surfaces are being added, or the grade of the property is being altered or modified, or which involves soil movement including, but not limited to, porches, decks, driveways, retaining walls, swimming pools, etc.

§ 143-190. General standards.

- A. All applications for building permits or grading plan approval for properties applicable to this ordinance shall contain a plan or certification providing for a zero increase in stormwater runoff for the completed project.
- B. Stormwater runoff quantities shall be calculated based on the criteria contained in the Residential Site Improvement Standards at N.J.A.C. 5:21.
- C. Zero increase in stormwater runoff shall be accomplished by implementing Stormwater management techniques as contained in the Residential Site Improvement Standards at N.J.A.C. 5:21 and/or the New Jersey Department of Environmental Protection Stormwater Best Management Practices Manual available at www.njstormwater.org.

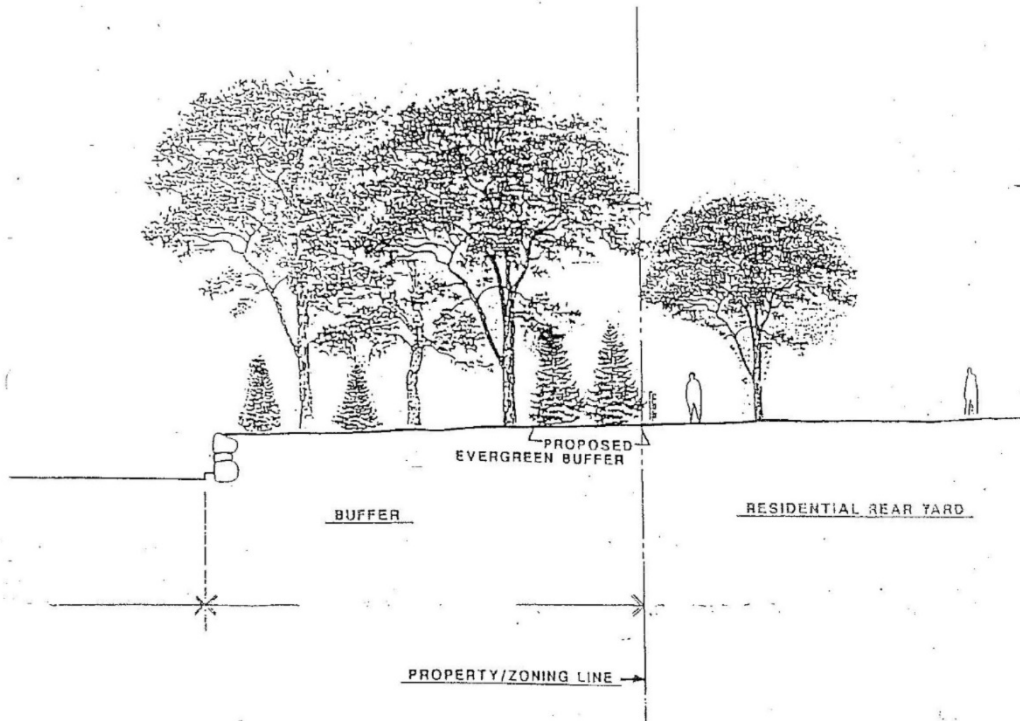
LAND USE
Borough of Butler

Typical Buffer Area

APPENDIX TO ARTICLE II

APPENDIX TO ARTICLE II

TYPICAL BUFFER AREA DIAGRAM



TYPICAL BUFFER AREA

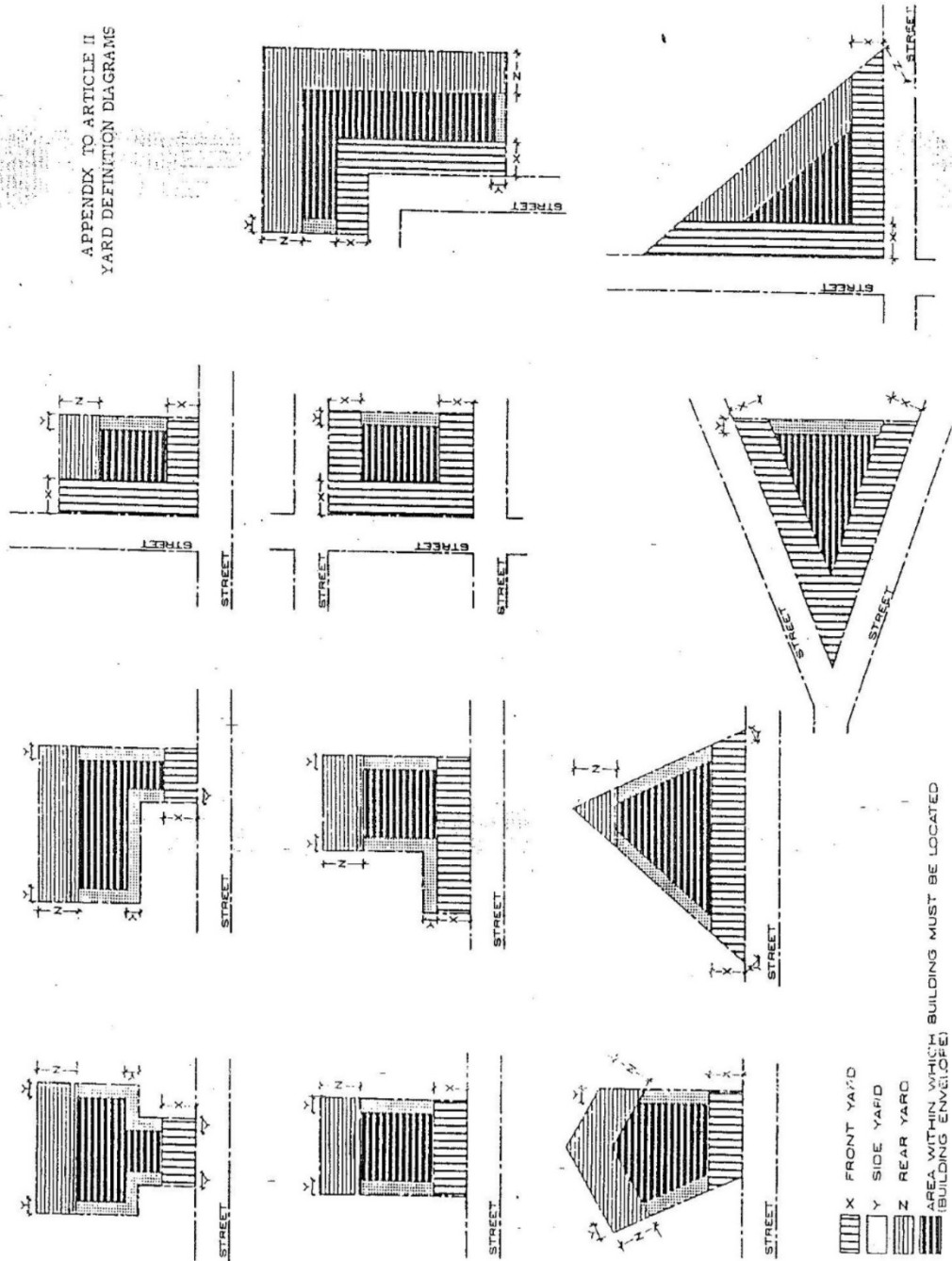
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LAND USE
Borough of Butler

Yard Definition Diagrams

APPENDIX TO ARTICLE II

APPENDIX TO ARTICLE II
YARD DEFINITION DIAGRAMS



LAND USE

143 Attachment 1

**Borough of Butler
Schedule A
Minimum Distances in Feet for Location of Parking and
Loading Areas and Minimum Buffer Widths**

Zone	From Buildings^{1,5}	From Street Right-of-Way	From Property Lines	From Residential Districts	Buffer Width⁶
R-1 through R-5 ²	10	10	25	25	25
R-6	20	50	10	50	50
R-7	20	50	20	50	50
R-8	20	50	10	50	50
SC	10	10	10	10	10
CBD	5	10	5	10	10
HC Zone	5 ³	25	10 ⁴	50	50
LI	5 ³	50	25	75	75
LI/CBD	5 ³	10	10	25	25

NOTES:

¹ Loading areas excluded.

² Nonresidential uses only.

³ Ten feet from front of building.

⁴ No setback required if parking is combined with parking on adjoining property.

⁵ No setback required if off-street parking extends under the building.

⁶ See Section 143-87 for buffer requirements.

LAND USE

143 Attachment 2

Borough of Butler

**Schedule B
Off-Street Parking Space Requirements
[Amended 7-16-2019 by Ord. No. 2019-12]**

Uses	Required Parking Space
One- and two-family dwellings ¹	
Two-bedroom	1.5 for each dwelling unit
Three-bedroom	2.0 for each dwelling unit
Four-bedroom	2.5 for each dwelling unit*
Five-bedroom	3.0 for each dwelling unit
Multifamily dwellings ¹	
Garden apartments	
Efficiency/studio/one-bedroom unit	1.80 for each dwelling unit ²
Two-bedroom unit	2.00 for each dwelling unit* ²
Three or more bedroom unit	2.10 for each dwelling unit ²
Townhouse	
Efficiency/studio/one-bedroom unit	1.80 for each dwelling unit ²
Two-bedroom unit	2.30 for each dwelling unit* ²
Three or more bedroom unit	2.40 for each dwelling unit ²
Senior citizen housing ¹	0.70 for each dwelling unit ²
Churches, auditoriums, theaters, including school auditoriums	1 for each 3 seating spaces
Assembly halls, dance halls, community buildings, social clubs, institutions	1 for each 100 square feet GFA
Hotels, motels	1 for each sleeping room
Hospitals	2 for each bed
Nursing, rest and convalescent homes	1 for each bed
Funeral homes, mortuaries	1 for each 100 square feet GFA
Laundromat	1 for each 50 square feet GFA
Business, professional and executive offices	
Less than 10,000 square feet GFA	1 for each 150 square feet GFA
10,000 to 25,000 square feet GFA	1 for each 200 square feet GFA

BUTLER CODE

Uses	Required Parking Space
25,000 square feet or more GFA	1 for each 250 square feet GFA
Retail store or service establishment	
Food sales	1 for each 150 square feet GFA
Non-food sales	1 for each 200 square feet GFA
Sit down restaurants, bars taverns and nightclubs	1 for each 65 square feet GFA
Drive-in restaurant	1 for each 35 square feet GFA
Fast-food restaurant	1 for each 50 square feet GFA
Bowling alleys	4 spaces per bowling lane
Racquet courts	4 spaces per court
Public garages, motor vehicle service stations	1 for each 50 square feet GFA
Manufacturing and industrial uses	1 for each 1,000 square feet or fraction thereof of GFA used for inside storage or warehousing plus 1 space for each 500 square feet or fraction thereof of GFA used for manufacturing and research or testing plus 1 space for each 200 square feet or fraction thereof of GFA used for offices
Barber Shops, Hair/Nail Salons	3 for each station / chair
Wholesale distribution centers and warehouses	3 spaces per 1,000 square feet GFA
Any use not listed above	1 space for each 200 square feet GFA

GFA = Gross Floor Area

* Where applications do not indicate proposed bedroom count, this figure shall apply.

¹ Off-street parking requirement shall meet minimum Residential Site Improvement Standards (RSIS).

² At least 1/2 space per unit shall be located in common parking areas.

LAND USE

143 Attachment 3

Borough of Butler

Schedule C Schedule of Permitted Uses
[Amended 7-21-2007 by Ord. No. 2007-24; Amended 2-22-
20016 by Ord. No. 2016-1; Amended 10-16-2018 by Ord. No.
2018-15; [Amended 7-16-2019 by Ord. No. 2019-12]

Borough of Butler Schedule C Schedule of Permitted Uses	R-1 Through R-4	R-5	R-6	R-7	R-8	SC	HC	CBD	LI	LI/ CBD
Principal Use										
One-family dwellings	X	X	X ¹	X ²						
Two-family dwellings		X								
Apartments			X ¹	X ³	X					
Townhouse	X ⁴			X ^{5A}						
Townhouse and Apartments					X ^{5A}					
Senior Citizen Housing						X				
Public Purpose Uses	X	X	X	X	X	X	X	X	X	X
Private Parks and Beaches	X	X	X		X					
Retail Stores and Shops							X	X ¹⁷		X
Business and Professional Offices				X			X	X ¹⁷	X	X
Banks							X ⁸	X ⁷		
Child Care Centers (§143-151)	X ⁶	X ⁶	X ⁶	X ⁶	X	X	X	X		
Restaurants, Bars and Taverns							X ⁹	X ^{9,17}		X ⁶
Studios (photography, music and art)							X	X		X
Printing Establishments							X	X		X
Schools—Business, Professional, Vocational							X	X		X

Funeral Homes §143-166	X ¹⁵									
Apartments above businesses no longer permitted										
Drive-up banking facilities §143-168								X		X
Car Washes §143-161							X			
Service Station §143-159							X			X
Limited Service Station §143-160							X			
Limited Service Station with convenience center §143-160.1 ²⁰							X			
Automobile Sales Establishments §143-170							X			
Garden Center and Buildings Material Sales §143-171							X			
Drive-in and Fast Food Restaurants §143-172							X			
Conversions for the Elderly no longer permitted										
Community Residences §143-169	X	X	X	X						
Wireless telecommunications antennas and facilities	See § 143-173.1 for permitted locations									
Home Occupations §143-173.2	X	X	X	X	X					
Keeping of Animals §143-173.3	X	X	X	X	X					
Adult Novelties and Adult Bookstores §143-167							X			
Self Storage Facilities §143-173.4							X			
Accessory Uses										
Private Swimming Pools §143-140	X	X	X	X	X	X				
Private storage and maintenance sheds §143-139	X	X	X	X	X	X				
Private garages §143-142	X ¹⁶	X ¹⁶	X	X	X	X				
Parking garages					X					
Off-street parking	X	X	X	X	X	X	X	X	X	X
Garages for delivery trucks and other commercial vehicles				X			X	X	X	X
Garbage, trash and recycling enclosures	X	X	X	X	X	X	X	X	X	X
Fences and Walls §143-141	X	X	X	X	X	X	X	X	X	X
Signs (See Article XXI)	X	X	X	X	X	X	X	X	X	X
Transportable structures §143-147				X	X				X	

Employee Cafeterias				X	X				X	
Motor vehicle storage and repair										X
Exterior Hydronic Heating Systems ¹⁸	X	X	X	X	X	X	X	X	X	X
Wind Energy Systems ¹⁹	X	X	X	X	X	X	X	X	X	X
Temporary Exterior Storage Units in Residential Districts	X	X								

Notes:
¹ One family dwellings shall meet the requirements of R-3 Residence District
² One family dwellings shall meet the requirements of R-2 Residence District
³ Low and moderate income units only may be apartments
⁴ Townhouses permitted in R-2 and R-3 Districts only
⁵ Townhouses permitted only on properties containing at least five acres
⁶ Only as a secondary use in connection with an institutional use.
⁷ Drive-up facilities only as conditional use.
⁸ Banks may include drive-up facilities
⁹ Drive-in and fast-food restaurants are prohibited.
¹⁰ Self-service facilities are prohibited
¹¹ Laundries may not employ more than four persons in addition to one owner or manager
¹² Laboratories shall be subject to performance standards of §143-149
¹³ Public utility facilities include pumping stations, metering stations, electrical switching stations, electrical substations and sewage treatment plants.
¹⁴ Cemeteries are permitted in the R-2, R-4 and R-5 Districts only
¹⁵ Funeral homes are permitted in the R-2, R-4 and R-5 Districts only
¹⁶ Private garages may accommodate not more than three cars
¹⁷ Take out service in CBD. All retail business shall be conducted entirely from within the confines of a building. All merchandise, including carry-out and take-out food, unless delivered, shall be purchased inside the building, and no food or merchandise shall be dispensed to the customer through pickup windows or other out-of-store accommodations
¹⁸ The operating fuel for an Exterior Hydronic Heating System shall be limited to Natural Gas, Propane, No. 2 Heating Oil and/or Electrical Power

¹⁹ Wind energy systems shall be surrounded by a Safety Area which shall be measured horizontally from the center of the structure and will include the area encompassed by a radius 125% of the height of the structure, measured from the structure's highest point to the average land surface at the structure's base

²⁰ Limited Service Station with Convenience Centers is a conditional use in the HC Zone [**Amended 10-18-2011 by Ord. No. 2011-16; 2-22-2016 by Ord. No. 2016-1**]

LAND USE
 143 Attachment 4
 Borough of Butler
 Schedule D schedule of Area and Bulk Regulations
 [Amended 6-16-2015 by Ord. No. 2015-12; Amended 7-16-2019 by Ord. No. 2019-12]

§143-118 - SCHEDULE "D"
 AREA AND BULK REGULATIONS
 LAND USE ORDINANCE
 BOROUGH OF BUTLER

Zone	Primary Use	Minimum Lot Area (sq.ft.)	Minimum Lot Frontage (ft.)	Minimum Lot Width (ft.)	Minimum Lot Depth (ft.)	PRINCIPAL BUILDINGS				ACCESSORY BUILDINGS			Maximum Building Coverage (%)		Maximum F.A.R. (%)	Maximum Building Height				Minimum Floor Area (sq.ft.)		
						Minimum Front Yard (ft.)	Minimum Rear Yard (ft.)	Minimum Side Yard (ft.)	Minimum Distance To:	Side Line (ft.)	Rear Line (ft.)	Other Bldg. (ft.)	Principal	Accessory		Principal	Accessory	Principal	Accessory	On-Story	First	Gross
						(ft.)	(ft.)	(ft.)	(ft.)	(ft.)	(ft.)	(ft.)	(ft.)	(ft.)		(ft.)	(ft.)	(ft.)	(ft.)	(ft.)	(ft.)	(ft.)
R-1	One-Fam. Dwelling	17,250	100	100	140	50 (11)	40	25	3 (12)	3 (12)	5	20	4	--	2½	35	--	14	1,500	1,000	1,500	
R-2	One-Fam. Dwelling	12,500	75	75	125	40 (11)	40	15	3 (12)	3 (12)	5	20	4	--	2½	35	--	14	1,200	900	1,200	
	Townhouses	See Section 143-120																				
R-3	One-Fam. Dwelling	10,250	65	65	125	35 (11)	35	10	3 (12)	3 (12)	5	20	4	--	2½	35	--	14	1,000	800	1,000	
	Townhouses	See Section 143-120																				
R-4	One-Fam. Dwelling	6,250	50	50	125	35 (11)	35	10	3 (12)	3 (12)	5	20	4	--	2½	35	--	14	900	600	900	
R-5	One-Fam. Dwelling	6,250	50	50	125	35 (11)	35	10	3 (12)	3 (12)	5	20	4	--	2½	35	--	14	900	600	900	
	Two-Fam. Dwelling	9,375	60	60	125	35 (11)	35	10	3 (12)	3 (12)	5	20	4	--	2½	35	--	14	900	600	900	
R-6	One-Fam. Dwelling	10,250	65	65	125	35 (11)	35	10	3 (12)	3 (12)	5	20	4	--	2½	35	--	14	1,000	800	1,000	
	Garden Apts.	See Section 143-121																				
R-7	One-Fam. Dwelling	12,500	75	75	125	40 (11)	40	15	3 (12)	3 (12)	5	20	4	--	2½	35	--	14	1,200	900	1,200	
	Townhouses	See Section 143-122																				
R-8	Garden Apts.	See Section 143-121 & 143-123.1																				

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	Townhouses & Apts.	See Section 143-123.2																				
SC	Senior Citizen Hsng	See Section 143-123																				
CBD	Business	--	--	--	--	(1)	10 or 25(2)(3)	0 or 10(4)	10	10	15	80	5	100	3	35(5)	--	15(5)	(6)	----	(6)	----
HC-1	Hwy. Commercial	30,000	150	150	200	50	50 (7)	25 (8)	15	15	10	20	5	30	5 (10)	60 (5)	2	35(5)	1,500	--	1,500	
HC-2	Hwy. Commercial	30,000	150	150	200	50	50 (7)	25 (8)	15	15	10	20	5	30	5 (10)	60 (5)	2	35(5)	1,500	--	1,500	
LI	Light Industrial	60,000	200	200	300	50	75 (7)	25 (9)	15	10	10	20	5	30	5 (10)	35 (5)	3	35(5)	3,000	--	3,000	
LI/CBD	Light Industrial	20,000	100	100	200	50	50 (7)	25 (8)	15	10	10	20	5	30	5 (10)	60 (5)	3	60(5)	3,000	--	3,000	

FOOTNOTES TO SCHEDULE

"D":

- | | | |
|---|--|--|
| <p>(1) New buildings shall be at least 25' from the center line of Boonton Avenue and at least 33' from the center line of Kiel Avenue. Otherwise, no front yard required.</p> <p>(2) 10' minimum, 25' minimum if building contains residences.</p> <p>(3) 25' adjoining a residential zone.</p> <p>(4) 10' adjoining a residential zone, otherwise none required.</p> <p>(5) See §143-129 for permitted extensions above height limit.</p> <p>(6) Minimum floor area for multi-family dwellings:
 Efficiency/Studio: 550 square feet
 One-bedroom unit: 700 square feet
 Two-bedroom unit: 900 square feet
 Three-bedroom unit: 1,000 square feet</p> <p>(7) 100' adjoining a residential zone. If the height of a building at any point exceeds 35', the distance between the property line and that part of the building which exceeds 35' in height shall be the minimum required yard setback plus one (1) foot for each foot of height in excess of 35'. If the adjoining property is in a residential zone, the distance between the property line and that part of the building which exceeds 35' in height shall be the minimum required yard setback plus on and one-half (1½) feet for each foot of height in excess of 35'.</p> | <p>(8) 50' adjoining a residential zone. If the height of a building at any point exceeds 35', the distance between the property line and that part of the building which exceeds 35' in height shall be the minimum required yard setback plus one (1) foot for each foot of height in excess of 35'. If the adjoining property is in a residential zone, the distance between the property line and that part of the building which exceeds 35' in height shall be the minimum required yard setback plus on and one-half (1½) feet for each foot of height in excess of 35'.</p> <p>(9) 75' adjoining a residential zone. If the height of a building at any point exceeds 35', the distance between the property line and that part of the building which exceeds 35' in height shall be the minimum required yard setback plus one (1) foot for each foot of height in excess of 35'. If the adjoining property is in a residential zone, the distance between the property line and that part of the building which exceeds 35' in height shall be the minimum required yard setback plus on and one-half (1½) feet for each foot of height in excess of 35'.</p> <p>(10) Buildings exceeding 35 feet in height are subject to additional yard setbacks as provided in Footnotes (7), (8), (9) and (10).</p> | <p>(11) Existing, conforming one and two-family uses may extend to the 35' height limitation, the front yard setback notwithstanding. The new structure must conform to the minimum side and rear setbacks, and may not exceed the existing front yard setback of the dwelling. 143-135 B. Extensions Into Yards shall not be applicable to this provision. [Amended 6-16-2015 by Ord. 2015-12]</p> <p>(12) In all residential zones, playsets, swing and gym sets and similar structures shall meet the side and rear yard setbacks for accessory structures. [Amended 6-16-2015 by Ord. 2015-12]</p> |
|---|--|--|

(13) Minimum 1,200 square feet for each store/office/unit; and to amend the bulk requirements for the R-1 Zone to read as follows:

		Principal Building							Accessory Buildings		
		Minimum	Minimum	Minimum	Minimum	Minimum	Minimum	Minimum	Minimum Distance To:		
<i>Square Feet</i>		Feet	Feet	Feet	Feet	Feet	Feet	Feet	Side Line FT	Rear Line Ft	Other Bldg. Ft
R-1	One Fam. Dwelling	12,500	75	75	12	40 [11]	4	15	3	3	5

<u>Max Building Coverage %</u>		Max F.A.R. %		<u>Maximum Building Height</u>				<u>Minimum Floor Area Square Feet</u>		
<i>Square Feet</i>	Feet	Feet		Stories	Feet	Stories	Feet	One Story	First Floor	Gross
R-1	One Fam. Dwelling	20	4	2 ½	35		14	1,200	900	1,200

143 Attachment 4:2

REPLACEMENT PAGE

LAND USE

143 Attachment 5

Borough of Butler

Checklist No. 1

Checklist for Determining Completeness of Application for Development

Name of Applicant _____

Application No. _____ Block _____ Lot(s) _____ Date Filed _____

Please indicate in the LAST COLUMN if the required information is Complete, Incomplete, Not Applicable or Waiver Requested	Minor Site Plan	Minor Subdiv	Prelim. Site Plan	Prelim. Major Subdiv	Final Site Plan	Final Major Subdiv	
1. Completed application form (15) copies	X	X	X	X	X	X	
2. Filing Fee (See Article VI)	X	X	X	X	X	X	
3. 15 black or blue on white prints of all maps	X	X	X	X	X	X	
4. 15 copies of all other documents	X	X	X	X	X	X	
5. 1 copy of this checklist completed by the applicant	X	X	X	X	X	X	
6. Completed County Planning Board application form (in triplicate) and County filing fee if the County Planning Board approval is required	X	X	X	X	X	X	
7. All maps signed and sealed by appropriate New Jersey Licensed or registered professional person.	X	X	X	X	X	X	
8. All maps signed and sealed by New Jersey licensed Land Surveyor					X		
9. Certified list of property owners and block and lot number of properties located within 200 feet of the tract boundary	X		X				
10. Name of tract or development	X	X	X	X	X	X	
11. Tax map sheet, with date of revision, block and lot numbers	X	X	X	X		X	
12. Tax map sheet, date prepared and date(s) of revisions, block and lot numbers as assigned by Tax Assessor					X		

BUTLER CODE

Please indicate in the LAST COLUMN if the required information is Complete, Incomplete, Not Applicable or Waiver Requested	Minor Site Plan	Minor Subdiv	Prelim. Site Plan	Prelim. Major Subdiv	Final Site Plan	Final Major Subdiv	
13. Certification that applicant is owner or his authorized agent or his authorized agent or that owner has given consent to file under an option agreement	X	X	X	X	X	X	
14. Plat scale not less than 1" = 50' nor more than 1" = 10'	X		X	X	X	X	
15. Plat scale not less than 1" = 30' nor more than 1" = 10'		X					
16. Plan and profile maps to have scales of 1" = 50' horizontal and 1" = 5' vertical				X			
17. Graphic scale	X	X	X	X	X	X	
18. Reference meridian	X	X	X	X	X	X	
19. Signature block for Board Chairman, Secretary and Board Engineer	X	X	X	X	X	X	
20. Maximum sheet size: 24" x 36"	X	X	X	X	X	X	
21. Name, address and license number of person preparing plan	X	X	X	X	X	X	
22. Name and address of record owner	X	X	X	X	X	X	
23. Name and address of applicant if other than owner	X	X	X	X	X	X	
24. Key map (scale: not less than 1" = 400') showing entire tract and its relation to surrounding area, including locations and names of principal roads.	X	X	X	X		X	
25. Existing property lines and other site lines, with bearings and distances	X	X	X	X	X	X	
26. Tract boundary line with bearings and distances		X		X			
27. Zone district(s) and identification of zone boundaries located on or adjoining property	X	X	X	X	X	X	
28. Area of the lot in square feet and acres	X	X	X	X	X	X	
29. Total area of each lot in square feet and the area of each lot located within the maximum depth of measurement		X		X			

LAND USE

Please indicate in the LAST COLUMN if the required information is Complete, Incomplete, Not Applicable or Waiver Requested	Minor Site Plan	Minor Subdiv	Prelim. Site Plan	Prelim. Major Subdiv	Final Site Plan	Final Major Subdiv	
30. Names of owners of adjoining properties					X		
31. Front, rear and side building setback lines as required by the zoning regulations	X		X		X	X	
32. All structures located within 100 feet of the tract	X		X	X		X	
33. All existing and proposed structures on the tract with setback distances	X	X	X	X	X	X	
34. Right-of-way lines, widths and the names of all existing streets adjoining the property	X		X		X	X	
35. Location and widths of all other existing and proposed rights-of-way and easements, the purpose of any easement and the text of any restrictions applicable to same	X	X	X	X	X	X	
36. Table indicating all requirements applicable to the zone in accordance with the Schedule D of Zoning Regulations with proposed dimensions, areas setbacks etc. indicating variances requested		X		X			
37. Location and widths of all other existing and proposed rights-of-way and easements including sight triangle easements defined by metes and bounds, the purpose of any easement and the text of any restrictions applicable to same					X		
38. Right-of-way lines, widths, and names of all existing streets on and within 100 feet of the property		X		X			
39. Location on and within 100 feet of the property of existing and proposed: a. watercourses and other drainage courses b. bridges c. culverts, and/or storm drains with sizes and gradients d. wooded areas e. rock outcroppings	X	X	X	X		X	

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Please indicate in the LAST COLUMN if the required information is Complete, Incomplete, Not Applicable or Waiver Requested	Minor Site Plan	Minor Subdiv	Prelim. Site Plan	Prelim. Major Subdiv	Final Site Plan	Final Major Subdiv	
40. Existing wells and septic systems		X		X			
41. Certification from the Tax Collector that all taxes and assessments for local improvements on the property have been paid through the most recent installment date	X	X	X	X	X	X	
42. Existing and proposed contours at minimum 2 feet intervals when new buildings or parking areas are proposed. Contours shall extend at least 50 feet beyond the property	X		X			X	
43. Elevations at corners of all proposed buildings and paved areas and at property corners	X		X			X	
44. All flood hazard areas, lakes, ponds, marshes, bogs, swamps and streams	X		X	X		X	
45. Freshwater wetlands including transition areas delineation or an affidavit by a qualified person stating that no wetlands on the property exist.	X	X	X	X		X	
46. All zoning requirements in accordance with the schedule referred to in 143-118 and the relationship of the proposed site plan to those requirements. Calculation of existing and proposed building and impervious coverage on the lot shall be included	X		X			X	
47. If wetlands or transition areas are located on the property, the applicant shall submit one of the following: a. A Freshwater Wetlands Permit from D.E.P. b. A Letter of Exemption from DEP. c. A Letter of Interpretation from DEP.	X	X	X	X		X	
48. Copies of any existing or proposed protective or restrictive covenants and deed restrictions	X	X	X			X	
49. A Soil and Sediment Control Plan	X		X	X		X	

LAND USE

Please indicate in the LAST COLUMN if the required information is Complete, Incomplete, Not Applicable or Waiver Requested	Minor Site Plan	Minor Subdiv	Prelim. Site Plan	Prelim. Major Subdiv	Final Site Plan	Final Major Subdiv	
50. Location and area described in bearings and distances and purpose of any open space to be dedicated to public use		X		X	X		
51. Environmental impact statement				X			
52. Soil data per Morris County Soil Survey (USDA, SCS) as follows: a. Map showing each soil type and soil symbol b. Maps, charts and tables reflecting interpretations of soil types including seasonable water table within 3 1/2 feet of the surface and bedrock within 3 1/2 feet of the surface			X	X			
53. Parking and loading spaces, with dimensions; width of traffic aisles and direction of traffic flow	X		X			X	
54. Specifications and construction detail sheet of existing and proposed paving and curbing	X		X			X	
55. Tentative/Final building floor plans. Scale: not less than 1/8 inch = 1 foot	X		X			X	
56. Front, rear and side building elevation drawings showing building materials. Scale: not less than 1/8 inch = 1 foot	X		X			X	
57. Three-dimensional artist's rendering of proposed building			X				
58. Utility systems showing connections to existing and proposed systems including, but not limited to: a. Plans and profiles of storm drainage facilities (ditches, pipes, detention facilities, etc.) showing materials, sizes, elevations and the like b. Drainage area map and drainage calculations c. Plans and profiles of existing and proposed sanitary sewers and appurtenant facilities	X		X	X		X	

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Please indicate in the LAST COLUMN if the required information is Complete, Incomplete, Not Applicable or Waiver Requested	Minor Site Plan	Minor Subdiv	Prelim. Site Plan	Prelim. Major Subdiv	Final Site Plan	Final Major Subdiv	
d. Existing and proposed water mains, showing sizes and materials e. Location of any proposed individual sewage disposal system along with percolation test results approved by the Board of Health f. Existing electric and natural gas lines and proposed connections thereto g. Location of existing and proposed water wells h. Letters of intent to serve the property from utilities (gas, electric, telephone, etc.)							
59. Location and description of all existing and proposed fuel and liquid storage facilities; and all solid waste storage facilities	X		X			X	
60. A listing of all products sold, manufactured and used in connection with any industrial operation including any and all chemicals and fluids used along with a description of the methods of storing and disposing of said chemicals and fluids	X		X			X	
61. An affidavit by the applicant for any industrial use acknowledging his understanding of the performance standards in § 143-149 and his agreement to conform to same at all time	X		X			X	
62. Location of existing and/or proposed fences, walls and sidewalks	X		X			X	
63. Generalized plan of landscaping showing basic treatment of all unpaved areas and buffers	X		X				
64. As-built plan of landscaping showing treatment of all unpaved areas and buffers including plant species, sizes and members						X	

LAND USE

Please indicate in the LAST COLUMN if the required information is Complete, Incomplete, Not Applicable or Waiver Requested	Minor Site Plan	Minor Subdiv	Prelim. Site Plan	Prelim. Major Subdiv	Final Site Plan	Final Major Subdiv	
65. In multifamily residential developments containing 25 or more units and in non-residential developments utilizing 1,000 square feet or more of land area the location and description of provisions for the recycling of recyclable materials in accordance with the municipal recycling ordinance. The plan shall be accompanied by a description of: <ul style="list-style-type: none"> a. The size, shape, materials of construction of the recycling area b. Name and address of the collector of recycled materials c. If recycled materials will be transferred to the Borough's recycling center or taken to some other location d. Frequency of collection 	X		X			X	
66. Present status and contemplated use of all existing and proposed buildings	X		X			X	
67. Size, location and details of existing and proposed signs	X		X			X	
68. Location, nature of construction, height and area and direction of illumination measured in footcandles of existing and proposed lighting	X		X			X	
69. Dedications for public parks, playgrounds or other public uses	X		X			X	
70. Location and use of all property reserved by covenant in the deed for the common use of all property owners	X		X			X	
71. Topography: Existing and proposed two-foot contours including high and low points on the property				X			
72. The following items should be indicated on the preliminary plat: <ul style="list-style-type: none"> a. Street signs b. Curbs and cutters 				X			

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Please indicate in the LAST COLUMN if the required information is Complete, Incomplete, Not Applicable or Waiver Requested	Minor Site Plan	Minor Subdiv	Prelim. Site Plan	Prelim. Major Subdiv	Final Site Plan	Final Major Subdiv	
c. Sidewalks d. Monuments e. Dry sewer systems f. Storm drains g. Street lights and lighting plan h. Shade trees i. Fire alarm box, fire hydrants j. Water mains							
73. Profile of existing and future continuing street within 200 feet of subdivision				X			
74. Central angles of arcs and curves along street lines				X			
75. Percolation test results if individual sewage disposal systems are proposed				X			
76. Plans; cross sections, centerline profiles and grades of all proposed streets. Minimum scale: 1 inch = 50 feet horizontal and 1 inch = 5 feet vertical				X			
77. Site grading plan showing existing and proposed contours, spot elevations, first floor elevations, garage floor elevations, driveway grades, house corner elevations, etc.				X			
78. Plan for storm water management including all details required in § 143-101B				X			
79. For all property lines, accurate distances, bearings, radii, arc lengths and central angles of all curve					X		
80. Location and description of all monuments					X		
81. As-built plans, cross-section and profiles of all streets, utility systems and appurtenant facilities					X		
82. As-built grading plan within two-foot contours					X		
83. Final submissions (to be submitted following approval of the final plat by the Planning Board)					X		

LAND USE

Please indicate in the LAST COLUMN if the required information is Complete, Incomplete, Not Applicable or Waiver Requested	Minor Site Plan	Minor Subdiv	Prelim. Site Plan	Prelim. Major Subdiv	Final Site Plan	Final Major Subdiv	
a. The original, one cloth print and one Mylar of the final plat for the signatures of appropriate borough officials b. One cloth print, one Mylar and 15 prints of the final plat after it has been filed with the Morris County Clerk's office							
84. Ownership disclosure in accordance with N.J.S.A. 40:55D-48.1	X	X	X	X	X	X	
85. Separate application and fee filed for any conditional use or variance involved	X	X	X	X		X	
86. Performance guarantee posted					X		

An application for development shall not be considered complete until all the material and information specified above has been submitted unless, upon receipt of a written request from the applicant, a specific requirement is waived by the municipal agency. The request for waiver shall accompany the application and shall be granted or denied within 45 days of receipt of said request.

Application declared complete

Date _____

Authorized Signature _____

Application declared complete

Date _____

Authorized Signature _____

LAND USE

143 Attachment 6

Borough of Butler

**Checklist No. 2
Checklist for Determining Completeness of Variance or Appeal**

Name of Applicant _____

Application No. _____ Block _____ Lot(s) _____ Date Filed _____

Please indicate in the LAST COLUMN if the required information is Complete, Incomplete, Not Applicable or Waiver Requested.	
1. Completed application form (15) copies	
2. Filing fee (See Article VI)	
3. 15 black or blue on white prints of all maps	
4. 15 copies of all other documents	
5. 1 copy of this checklist completed by the applicant	
6. All maps signed and sealed by appropriate New Jersey Licensed or registered professional person	
7. Certification that applicant is owner or his authorized agent or his authorized agent or that owner has given consent to file under an option agreement	
8. A proposed form of notice to be published in the newspaper and to adjoining land owners in accordance with N.J.S.A. 40:55D-12. The notice shall state the lot and block numbers of the property, the specific use or uses proposed, the variances being sought so far as known, together with the number of the ordinances from which the variances are sought, stating the time and place of hearing and the date after which the application may be inspected and other approvals sought (e.g. site plan, conditional use, subdivision, appeals, interpretations, etc	
9. List of names, address, lot and block numbers as appearing on the official tax records of the Borough of Butler, of owners of property within 200' of the subject premises and municipal, county and State agencies upon whom notice must be served in the manner provided by law (3 copies)	
10. If application is an appeal from a decision of the construction official or zoning officer, date of decision or order appealed from	
11. If there has been a previous application involving the premises in question, the date of filing, the nature of the request and the disposition made	
12. Unless an application for subdivision or site plan is concurrently filed with the variance or appeal application, a concept plan shall be submitted and shall show, where applicable to the relief being sought, the following information: <ol style="list-style-type: none"> a. Key map (scale; not less than 1 inch = 400 feet) showing entire tract and its relation to surrounding area including locations and names of principal roads b. Tract boundary line c. Existing and proposed property lines and other site lines d. Zone district(s) and identification of zone boundaries located on or adjoining the property e. Total area of the tract in square feet and acres 	

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<ul style="list-style-type: none"> f. Total area of each lot in square feet and area of each lot located within the maximum depth of measurement g. Table indicating all requirements applicable to the zone in accordance with the Schedule D of Zoning Regulations with proposed dimensions, areas, setback, etc. indicating variances requested h. All existing and proposed lot numbers i. Front, rear and side building setback lines as required by the zoning regulations j. All structures located on adjacent property k. All structures located on the tract with setback distances l. Right-of-way lines, widths, and names of all existing streets on and within 100 feet of the property m. Location and widths of all other existing and proposed rights-of-way and easement, the purpose of any easement and the text of any restrictions applicable to same n. Location on and within 100 feet of the property of existing and proposed: <ul style="list-style-type: none"> (a) watercourses and other drainage courses (b) bridges (c) culverts and/or storm drains with sizes (d) wooded areas (e) rock outcroppings o. Existing wells p. Existing septic systems 	
13.	Certification from the Tax Collector that all taxes and assessments for local improvements on the property have been paid through the most recent installment date
14.	Copies of any existing or proposed protective or restrictive covenants and deed restrictions
15.	List of the specific sections of the Ordinance from which relief is sought and the specific nature of the relief being sought on the specific nature of the appeal
16.	A written statement establishing the basis for the appeal or relief and the justification for said relief, addressing, as appropriate, special reasons and/or negative criteria as provided in N.J.S.A. 40:55D-70
17.	Ownership disclosure in accordance with N.J.S.A. 40:55D-48.1

An application for development shall not be considered complete until all the material and information specified above has been submitted unless, upon receipt of a written request from the applicant, a specific requirement is waived by the municipal agency. The request for waiver shall accompany the application and shall be granted or denied within 45 days of receipt of said request.

Application declared complete Date _____

Authorized Signature

Application declared complete Date _____

Authorized Signature

Chapter 150

LICENSING

- § 150-1. Purpose.
- § 150-2. Applications.
- § 150-3. Investigation of applicants.
- § 150-4. Contents of license.
- § 150-5. Keeping of records.
- § 150-6. Display of license.
- § 150-7. Transferability.
- § 150-8. Expiration; renewal; proration.
- § 150-9. Revocation of licenses.
- § 150-10. Notice of hearing.
- § 150-11. Hearing; determination.
- § 150-12. Reinstatement of revoked license.
- § 150-13. Establishment of character of business; filing of bond.
- § 150-14. Bond forfeiture.
- § 150-15. Power to make rules and regulations.
- § 150-16. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 4-1 of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Alcoholic beverages — See Ch. 67.](#)

[Amusements — See Ch. 69.](#)

[Bingo and raffles — See Ch. 82.](#)

[Cats — See Ch. 93.](#)

[Dogs — See Ch. 108.](#)

[Pool and billiards — See Ch. 174.](#)

[Special sales — See Ch. 184.](#)

[Taxicabs — See Ch. 213.](#)

§ 150-1. Purpose.

The purpose of this chapter is to provide a uniform set of procedures for administering the issuance, renewal and revocation of all licenses issued by the Borough, except alcoholic beverage licenses, dog licenses and taxicab licenses.

§ 150-2. Applications.

All applications for licenses shall be made to the Borough Clerk upon forms provided by him and shall contain the following information:

- A. Name and description and permanent and local address of the applicant. If the applicant is a corporation, the name and address of its registered agent.
- B. If the licensed activity is to be carried on at a fixed location, the address and description of the premises.
- C. If a vehicle is to be used, its description, including the license number.
- D. If the applicant is employed by another, the name and address of the employer, together with credentials establishing the exact relationship.

- E. The days of the week and the hours of the day during which the licensed activity will be conducted.
- F. A description of the nature of the business and the goods, property or services to be sold or supplied.
- G. A statement as to whether the applicant has been convicted of any crime or the violation of any municipal ordinance other than traffic offenses and, if so, the date and place of conviction, the nature of the offense and the punishment or penalty imposed.
- H. Appropriate evidence as to the good character and business responsibility of the applicant so that an investigator may properly evaluate his character and responsibility.
- I. The applicant shall be fingerprinted if the Chief of Police determines that fingerprints are necessary for proper identification. Fingerprint records shall be immediately processed for classification and identification.
- J. Applications by partnerships will be signed by all partners with the information required by this section supplied in detail as to each partner, and applications of corporations shall have attached individual statements containing all of the information required by this section relating to each employee or agent who shall engage in the licensed activity, and shall be signed by each employee or agent.

§ 150-3. Investigation of applicants.

Each application shall be referred to the Chief of Police or a police officer designated by him, who shall immediately institute whatever investigation of the applicant's business responsibility, moral character and ability to properly conduct the licensed activity as he considers necessary for the protection of the public. He shall communicate his findings in writing to the Borough Clerk within a reasonable time after the application has been filed. If the investigator decides that the applicant's character, ability or business responsibility is unsatisfactory, or the products, services or activity are not free from fraud, he shall disapprove the application, and the Clerk shall refuse to issue the license and shall so notify the applicant. Otherwise, the Borough Clerk shall issue the license immediately, provided that the required license fees have been paid, except in cases where approval of the Mayor and Council is required. In the case of an application for a solicitor's, peddler's or canvasser's license, the license may be issued immediately subject to the investigation.

§ 150-4. Contents of license.

Licenses shall be in a form which the Mayor and Council shall prescribe by resolution and shall contain the following information:

- A. The name and address of the licensee.
- B. The number and type of the license and the nature of the licensed activity.
- C. The address at which the licensed activity is conducted, if the activity is carried on at a fixed location.

- D. If the licensed activity is conducted from a vehicle, the make, model and license number of the vehicle.
- E. The expiration date of the license.
- F. Any other appropriate information which the Mayor and Council may, by resolution, require.

§ 150-5. Keeping of records.

The Borough Clerk shall keep a record of all licenses issued under this chapter. The record shall be in a form prescribed by resolution of the Mayor and Council and shall contain the same information as is required by § 150-4 to be contained in the license. It shall also indicate the amount of the fee paid for the licenses, the date upon which payment was received, the date of the issuance of the license, whether the license is a new license or a renewal and any other information which the Mayor and Council may, by resolution, require.

§ 150-6. Display of license.

When the licensed activity is conducted at a fixed location or from a vehicle, the license shall be prominently displayed at the location or on the vehicle. In all other cases, the licensee shall have the license in his possession at all times and shall display it upon the request of any police officer or any person with whom he is doing business.

§ 150-7. Transferability.

Every license shall apply only to the person to whom it was issued and shall not be transferable to another person. Licenses may be transferred from place to place in cases where the licensed activity is conducted at a fixed location, but only with the approval, by resolution, of the Mayor and Council.

§ 150-8. Expiration; renewal; proration.

- A. Except where expressly provided otherwise, all licenses shall expire on December 31 of the year of issue at 12:00 midnight local time. Applications for the renewal of licenses shall be made not later than December 1 of the year of issue.
- B. When an application for a license is made during the course of any calendar year, the fee shall be prorated to the nearest month. Any period of time greater than 1/2 a month shall be considered as a full month for this purpose.

§ 150-9. Revocation of licenses.

Any license or permit issued by the Borough may be revoked by the Mayor and Council after notice and a hearing for any of the following causes:

- A. Fraud or misrepresentation in any application for a permit or license.
- B. Fraud, misrepresentation or other dishonesty in the conduct of the licensed activity.
- C. A violation of any provision of this chapter.
- D. Conviction of the licensee for any felony or high misdemeanor or a misdemeanor or disorderly person's offense involving moral turpitude.
- E. Conduct of the licensed activity whether by the licensee himself or his agents or employees in an unlawful manner or in a manner that constitutes a breach of the peace or a menace to the public health, safety or general welfare.
- F. Whenever a license has been issued immediately upon an application, pending the results of the investigation provided for by this chapter, such license may be summarily revoked if the result of the investigation is such as would have resulted in denial of the application.

§ 150-10. Notice of hearing.

Notice of a hearing for the revocation of a license or permit shall be given in writing by the Borough Clerk. The notice shall specifically set forth the grounds upon which the proposed revocation is based and the time and place of the hearing. It shall be served by mailing a copy to the licensee at his last known address by certified mail, return receipt requested, at least five days prior to the date set for the hearing.

§ 150-11. Hearing; determination.

At the hearing the licensee shall have the right to appear and be heard, to be represented by an attorney, to present witnesses in his own behalf, to cross-examine opposing witnesses and to have a permanent record made of the proceedings at his own expense. The Mayor and Council shall revoke or suspend the license if they are satisfied by a preponderance of the evidence that the licensee is guilty of the acts charged.

§ 150-12. Reinstatement of revoked license.

The Mayor and Council may issue another license to a person whose license has been revoked or denied as provided in this chapter if, after hearing, they are satisfied by clear and convincing evidence that the acts which led to the revocation or denial will not occur again; otherwise, no person whose license has been revoked or denied, nor any person acting for him, directly or indirectly, shall be issued another license to carry on the same activity.

§ 150-13. Establishment of character of business; filing of bond.

The licensing officer is directed to establish the character of any new business application by:

- A. Eliciting a declaration of intention of all new businessmen as to whether they intend to remain within the Borough temporarily or longer than a period of one year.

- B. Requiring a filing of a bond in an amount equal to 25% of the value of the applicant's stock, and in no event shall the bond be less than \$1,000 in amount.

§ 150-14. Bond forfeiture.

- A. The bond shall be declared forfeit upon conclusive proof of:
- (1) Falsification in application for a license.
 - (2) Willful violation of an ordinance, state or federal law.
 - (3) Removal from the Borough within a year after opening the business premises without payment of the license fee or fees required of itinerant and transient vendors as established in § 218-3, Fee; license period, of Ch. 218, Transient Merchants, of this code.
- B. The bond of every merchant continuously conducting a vending business for more than one year shall be surrendered, and no further license shall be required of him under this chapter.

§ 150-15. Power to make rules and regulations.

The Mayor and Council may, by resolution, make rules and regulations which interpret or amplify any provision of this chapter or for the purpose of administering the provisions of this chapter or making them more effective. No regulation shall be inconsistent with or alter or amend any provision of this chapter, and no regulations shall impose any requirement which is in addition to or greater than the requirements that are expressly or by implication imposed by any provision of this chapter.

§ 150-16. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 153

LITTERING

- § 153-1. Definitions.
- § 153-2. Public places.
- § 153-3. Placement in receptacles; open burning.
- § 153-4. Sweeping into gutters.
- § 153-5. Duty of merchants.
- § 153-6. Litter thrown by persons in vehicles.
- § 153-7. Truck loads causing litter.
- § 153-8. Parks.
- § 153-9. Lakes and fountains.
- § 153-10. Handbills.
- § 153-11. Newspapers.
- § 153-12. Posting of notices on lampposts and other structures.
- § 153-13. Occupied private property.
- § 153-14. Responsibility of owner.
- § 153-15. Vacant lots.
- § 153-16. Animal feces.
- § 153-17. Defense.
- § 153-18. Sanitary disposal.
- § 153-19. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 3-3 of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Cats — See Ch. 93.](#)
[Dogs — See Ch. 108.](#)

[Parks and recreation areas — See Ch. 168.](#)

§ 153-1. Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

GARBAGE — Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

LITTER — Garbage, refuse and rubbish as defined herein, and all other waste material which, if thrown, deposited or stored as herein prohibited, tends to create a danger to public health, safety and welfare.

PRIVATE PREMISES — Any dwelling, house, building or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, ground, walk, driveway, porch, steps or vestibule belonging or appurtenant to such dwelling, house, building or other structure.

PUBLIC PLACE — Any street, sidewalk, alley or other public ways and any and all public parks, squares, spaces, grounds and buildings.

PUBLIC STRUCTURE OR BUILDING — Any structure or building owned or operated by the federal, County or state government or any governmental agency.

REFUSE — All putrescible solid wastes, except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, dismantled automobiles and parts thereof, scrap metal, junk, machinery and solid market and industrial wastes.

RUBBISH — Nonputrescible solid wastes, consisting of both combustible and noncombustible wastes, such as papers, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, building materials and similar materials.

VEHICLE — Every device, in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

§ 153-2. Public places.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the Borough except in public receptacles or in authorized private receptacles for collection, or in official Borough dumps, provided that public receptacles shall not be used by persons owning or occupying property in the vicinity of public receptacles for the deposit of domestic, commercial and industrial litter arising from the conduct of such activities.

§ 153-3. Placement in receptacles; open burning.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place. No person shall burn in the open any rubbish or garbage or refuse, including leaves, wood and building debris, except by special permit of the Fire Department, obtained from the Borough Clerk. This shall not be construed to prohibit outdoor cooking and the use of normal fuel therefor.

§ 153-4. Sweeping into gutters.

- A. No person shall sweep into or deposit in any gutter, street or other public place within the Borough the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.
- B. Nothing in this section shall be construed to prohibit the deposit of leaves in a neat and careful manner in the gutter of any street when the Road Department is collecting same.

§ 153-5. Duty of merchants.

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or public place within the Borough the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of

business within the Borough shall keep the sidewalk and gutter in front of their business premises free of litter.

§ 153-6. Litter thrown by persons in vehicles.

No person while a driver or passenger in a vehicle shall throw or deposit litter upon any street or other public place within the Borough.

§ 153-7. Truck loads causing litter.

No person shall drive or move any truck or other vehicle within the Borough unless such vehicle is so constructed or loaded as to prevent any load or contents of litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the Borough the wheels or tires of which carry onto or deposit in any street, alley or other public place mud, dirt, sticky substances or foreign matter of any kind.

§ 153-8. Parks.

No person shall throw or deposit litter in any park within the Borough except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

§ 153-9. Lakes and fountains.

No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere within the Borough.

§ 153-10. Handbills.

- A. Throwing or distributing commercial handbills in public. No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the Borough. Nor shall any person hand out or distribute or sell any commercial handbill in or upon any sidewalk, street or other public place within the Borough, provided that it shall not be unlawful on any sidewalk, street or other public place within the Borough for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it.
- B. Placing commercial and noncommercial handbills on vehicles. No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle, provided that it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof a noncommercial handbill to any occupant of a vehicle who is willing to accept it.

- C. Depositing commercial and noncommercial handbills on uninhabited or vacant premises. No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.
- D. Prohibition of distribution of handbills where properly posted. No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises if requested by anyone thereon not to do so, or if there is placed on the premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No Peddlers or Agents," "No Advertisement" or any similar notice, indicating in any manner that the occupants of such premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises.
- E. Distribution of commercial and noncommercial handbills at inhabited private premises. No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises. In case of inhabited private premises which are not posted, as provided in this section, such person, unless requested by anyone upon such premises not to do so, shall have the authority to place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be used when so prohibited by federal postal law or regulations.

§ 153-11. Newspapers. [Added 12-18-1990 by Ord. No. 1990-30¹]

- A. It shall be unlawful for any person to deliver or deposit or for any person, firm or corporation to cause the delivery or deposit of any unsolicited newspapers, shoppers and other like printed matter to or upon any private premises within the Borough of Butler except in accordance with the terms hereof. For the purposes of this section, "unsolicited" shall mean the printed matter referred to herein which has not been ordered, subscribed to or requested by the recipient.
- B. Such printed matter shall be placed only within a permanently installed appurtenance to the premises designed and designated for the receipt of such printed matter or, if there is none, on the ground or floor at a point beneath the place where such premises receives its mail or within a three-foot radius of that point.
- C. Excepted from the provisions of Subsection B hereof shall be such printed matter which plainly bears upon it, either in the masthead or on the front page, the name and address of a person responsible for its circulation to whom may be addressed a written notice by any recipient indicating the recipient's desire to cease future delivery of the particular item of printed matter.
- D. There shall be no intentional delivery whatsoever of any such unsolicited printed matter to premises after the owner or tenant of such premises has notified the publisher or the delivery person or, in the case of printed matter referred to in Subsection C hereof, after

1. Editor's Note: This ordinance also repealed former § 153-11, Newspapers.

the owner or tenant of the premises has notified that person indicated in the printed matter to be the person having authority to cease further delivery of the same, by certified mail, return receipt requested, at the address so indicated, that such delivery shall cease or be suspended for a stated period of time.

- E. Any person, firm or corporation convicted of a violation of any provision of this section shall be subject to a fine of not more than \$100. Each delivery in violation of the terms hereof shall be deemed a separate offense.

§ 153-12. Posting of notices on lampposts and other structures.

No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamppost, public utility pole or shade tree, or upon any public structure or building, except as may be authorized by the owners thereof or required by law.

§ 153-13. Occupied private property.

No person shall throw, deposit or store litter on any occupied private property within the Borough, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection and removal of same in such manner that same shall not be unsightly and detrimental to the surrounding neighborhood.

§ 153-14. Responsibility of owner.

The owner or person in control of any private property shall at all times maintain the premises free of litter. This section, however, shall not prohibit the storage of litter in authorized private receptacles for collection.

§ 153-15. Vacant lots.

No person shall throw or deposit litter on any open or vacant private property within the Borough, whether owned by such person or not.

§ 153-16. Animal feces. [Added 12-1-1980 by Ord. No. 80-23]

No person shall permit any animal owned or under his control to defecate upon any public property and/or any street within the Borough of Butler or on any private property without the expressed consent of the owner of said property.

§ 153-17. Defense. [Added 12-1-1980 by Ord. No. 80-23]

It shall be a defense for the violation of § 153-16 of this chapter that a person shall have immediately removed such defecation and disposed of it in a sanitary manner.

§ 153-18. Sanitary disposal. [Added 12-1-1980 by Ord. No. 80-23]

Disposal in a sanitary manner shall include taking the feces or dung home for disposal or wrapping the feces and placing it in a trash can. It shall not include burial, dispersal (unless such burial or dispersal is upon the property of the person doing the burying or dispersing), placement in a storm sewer or placing unwrapped feces in a trash can.

§ 153-19. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 155
(RESERVED)

[Former Ch. 155, Loitering, adopted as Section 3-1 of the Revised General Ordinances of 1976, as amended, was repealed 5-20-2008 by Ord. No. 2008-6.]

Chapter 156

(RESERVED)

**[Former Ch. 156, MASSAGE, BODYWORK AND SOMATIC THERAPY ESTABLISHMENTS. HISTORY:
Adopted by the Mayor and Council of the Borough of Butler 6-19-2007 by Ord. No. 2007-8.
Repealed 6-18-2013 by Ord. No. 2013-5. See N.J.S.A. 45:11-78]**

Chapter 158

NEWSRACKS

§ 158-1. Definitions.

§ 158-2. Intent and purpose.

§ 158-3. General prohibition.

§ 158-4. Only modular newsrack box assemblies (MNBA) permitted.

§ 158-5. Location of newsracks.

§ 158-6. Location and installation criteria.

§ 158-7. Request for locations.

§ 158-8. Selected locations.

§ 158-9. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 2-20-2007 by Ord. No. 2007-5. Amendments noted where applicable.]

§ 158-1. Definitions.

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

MODULAR NEWSRACK BOX ASSEMBLY (MNBA) — A unit that has assembled together two or more newsrack boxes in a housing that is supported by one or more pedestals. The modular newsrack box assembly is then permanently attached to a sidewalk or concrete pad by bolts or other such fasteners. Newspapers are distributed by placing such newspapers in the various newsrack boxes by various newspaper vendors. Two or more newspaper vendors may distribute newspapers from a modular newsrack box assembly.

NEWSPAPER VENDOR — Any person or other legal entity distributing publications by the use of a newsrack box in the Borough of Butler.

NEWSRACK BOX or NEWSRACK — A rectangular cube-type box that has a windowed door on its front for the purposes of viewing inside the cube-shaped box and also to gain access to the box. Newspapers or other news periodicals are placed in the newsrack box for the purposes of distribution. One gains access to the interior of the newsrack box by opening the front windowed door. The newsrack box may be, but need not be, accessed by inserting coined money to unlock the access door.

§ 158-2. Intent and purpose.

A. Findings.

- (1) The uncontrolled placement of newsracks in public rights-of-way and semipublic rights-of-way presents an inconvenience and danger to the safety and welfare of persons using such rights-of-way, including pedestrians, persons entering and leaving vehicles and buildings, and persons performing essential utility, traffic control and emergency services.

- (2) Newsrack so located as to cause an inconvenience or danger to persons using public rights-of-way and semipublic rights-of-way, and unsightly newsracks located therein, constitute public nuisances.
 - (3) These factors constitute an unreasonable interference with and obstruction of the use of public rights-of-way and semipublic rights-of-way, are injurious to health, offensive to the senses, and constitute such an obstruction of the free use of property as to interfere in the comfortable enjoyment of life and property by the entire community.
 - (4) The Borough Council recognizes, however, that the use of such rights-of-way is so historically associated with the sale and distribution of newspapers and publications that access to the areas for such purposes should not be absolutely denied. The Borough Council further finds that these strong and competing interests require a reasonable accommodation which can only be satisfactorily achieved through the means of this chapter which is designed to accommodate such interests regulating the time, place and manner of using such newsracks.
- B. Purpose. The provisions and prohibitions hereinafter continued and enacted are in pursuance of securing and promoting the general welfare of persons in the Borough in their use of public rights-of-way and semipublic rights-of-way through the regulation of placement, appearance, number, size, and servicing of newsracks on such rights-of-way so as to:
- (1) Provide for pedestrian and driving safety and convenience;
 - (2) Ensure no unreasonable interference with the flow of pedestrian or vehicular traffic including ingress to, or egress from, any place of business or from the street to the sidewalk;
 - (3) Provide reasonable access for the use and maintenance of sidewalks, poles, traffic signs and signals, hydrants, mailboxes, and similar appurtenances, and access to locations used for public transportation purposes;
 - (4) Reduce visual blight on the public rights-of-way and semipublic rights-of-way, protect the aesthetics and value of surrounding properties, and protect the quiet of residential areas; and
 - (5) Reduce exposure of the Borough to personal injury or property damage claims and litigation.

§ 158-3. General prohibition.

No person shall install, use or maintain any newsrack within the Borough of Butler except as specifically provided in this chapter.

§ 158-4. Only modular newsrack box assemblies (MNBA) permitted.

- A. Only MNBA units shall be permitted to be installed on the public sidewalks, public property, and on the exterior of any building on private property in the Borough of Butler (hereafter "Butler") within the areas identified in Section 158.08(B). No other newsrack boxes, MNBA units, or other such newspaper vending units shall be permitted to be placed anywhere in Butler, except as is provided in this chapter.
- B. The newspaper vendor shall be obligated to purchase at its expense its own newsrack boxes and also to share in the cost of the purchase of the MNBA unit with other newspaper vendors sharing the MNBA unit in question. In the event Butler purchases either the newsrack box and/or the MNBA unit for and on behalf of a newspaper vendor or vendors, such newspaper vendor or vendors shall reimburse Butler its out-of-pocket expense for such purchases, wherein each vendor shall pay its proportionate share of such out-of-pocket expenses. Butler shall not receive any additional money above and beyond that which it expended for the newsrack boxes and/or the MNBA unit. Butler prefers that the newspaper vendors purchase the newsrack boxes and the MNBA units.
- C. Maintenance, repair, and service of each newsrack box and MNBA unit shall be the obligation of the newspaper vendors respectively. In the event the Borough of Butler expends any moneys for such, the Borough of Butler shall be reimbursed its expenditures by the newspaper vendors who were obligated to make such expenditures. Prior to Butler performing any maintenance, repairs or service to the newsrack boxes and/or MNBA units, Butler will take reasonable steps and efforts to cause the responsible newspaper vendors to perform such maintenance, repair and/or service.
- D. The style, color, size, material, and design of the newsrack box and the MNBA unit, as well as its location, shall be determined by Butler.
- E. The installation locations of the MBNA units on the public property or public sidewalks within Butler shall be selected by Butler as described in more detail herein. The newspaper vendors shall be obligated to arrange for the installation work for each MNBA unit installed on the public sidewalks or public property, at the newspaper vendor's own expense.
- F. The MNBA units can accommodate from two to six single newsrack boxes. There is no limit on the reasonable number of MNBA units that can be located in the Borough of Butler in compliance with this chapter.
- G. There is no limit to the reasonable number of newsrack boxes that a particular newspaper vendor can utilize, except that a newspaper vendor is permitted to have only one newsrack box per MNBA unit whenever other newspaper vendors wish to utilize a newsrack box in such MNBA unit. For the purposes of this chapter, a double newsrack box is considered as one newsrack box.
- H. There are no time restrictions as to when the public may access the newsracks to obtain newspapers; that is, such access may occur 24 hours per day, seven days per week, since the MNBA's are not located in the residential districts.
- I. Any other type of individual freestanding newspaper vending machines, boxes, newsracks, etc., whether coin-operated or otherwise, are prohibited in the Borough of

Butler. Any such prohibited units existing after the adoption of this chapter shall be removed by the particular owner of such unit no later than 90 days after the effective date of this chapter or at an earlier date when such newspaper vendor has been afforded the opportunity of replacement distribution by utilization of a newsrack box in an MNBA unit or units from which to distribute newspapers in accordance with this chapter. The failure of an owner to remove a prohibited unit after the expiration of the ninety-day period will result in the Borough removing the unit. The Borough will store the unit and give the owner of the unit notice that the unit has been removed and brought to storage. The owner shall have a period of 10 days for to retrieve the unit and reimburse the Borough for any expenses in connection with the removal and storage of the unit. In the event the owner does not retrieve the unit and reimburse the Borough, the unit will be disposed of by the Borough.

- J. After the adoption of this chapter, newspaper vendors shall take timely action to comply with the terms of this chapter. A newspaper vendor may seek, in writing, an extension of the ninety-day removal time limit, for just cause, stating the newspaper vendor's reasons why such extension should be granted; provided that such newspaper vendor had taken timely action to comply with this chapter and its reasons for noncompliance are due to reasons other than the actions or inactions of the newspaper vendor requesting the extension Butler will not unreasonably deny such requests for an extension.

§ 158-5. Location of newsracks.

- A. A newspaper vendor desiring a general location for a newsrack box within a MNBA unit shall submit such request in writing to Butler as required in this chapter. Butler shall make available a location or locations to each newspaper vendor who requests a location or locations. Butler will seek to identify a location as close as practicable to that which had been requested by the newspaper vendor, taking into account the criteria of this chapter. In the event the Borough of Butler is unable to grant the vendor's request for a specific location, the Borough of Butler will identify its reasons for such a decision based on the criteria of this chapter and in such event the Borough of Butler will identify an alternative location or locations that is available to the applying newspaper vendor. In no event shall the newspaper vendor be denied the right to distribute its papers. The newspaper vendor's right to distribute shall not be abridged by Butler in that the Borough of Butler shall make available a location or locations to each newspaper vendor who requests a location or locations.
- B. Butler, in its discretion, shall determine the specific location of each MNBA unit. The determination of the place and manner of installation of such MNBA unit shall be made by the Borough of Butler in its discretion wherein its discretion shall not be exercised unreasonably, capriciously or arbitrarily, and shall be made in accordance with the criteria of this chapter, as governed by federal and state law.

§ 158-6. Location and installation criteria.

The MNBA units located on public sidewalks, public property, and on the exterior of any building on private property shall be installed in accordance with the following criteria:

- A. No MNBA unit shall be installed wherein it impedes the flow of pedestrian or vehicular traffic.
- B. No MNBA unit shall be installed wherein it endangers the public safety of persons or property.
- C. No MNBA unit shall be installed where it interferes with the ingress and egress from any residence or place of business.
- D. No MNBA unit shall be located wherein its location interferes with the use of traffic signs, traffic signals, fire hydrants, utility poles, mailboxes, and other such police, fire, and/or traffic control devices.
- E. The content of the newspaper publication shall not be considered in determining the manner of and place of location of the MNBA unit.
- F. The newspaper vendor does not need a license, permit or other such approval to distribute its newspaper in Butler.
- G. The MNBA unit shall be placed in a location in keeping with the character and zoning in Butler so as to minimize the visual appearance and clutter of newsracks, but not at the expense of the newspaper vendor's First Amendment right to distribute its newspaper.
- H. No MNBA unit shall be installed above or within a proximity to interfere with the use, maintenance, and/or repair of any gas line, water line, sewer line or other such utility line.
- I. No MNBA unit shall be located so as to impede the lawful use of any buildings or access thereto.
- J. No MNBA unit shall be located so as to interfere with the growth of any municipally owned shade trees, plants, and shrubs existing in the right-of-way sidewalk area.
- K. No MNBA unit shall be located to interfere with the use of municipally installed public benches and seating.

§ 158-7. Request for locations.

- A. A newspaper vendor seeking to distribute its newspapers in Butler, in accordance with this chapter, shall make a request in writing to the Borough of Butler for a location or locations within Butler.
- B. The newspaper vendor is to identify the location by designating a corner of a particular intersection and/or by reciting dimensions from some fixed identifiable structure or object, and/or by some other method of identifying the location so as to clearly inform Butler of the location requested.
- C. Butler shall review the request and shall make the final determination as to the location of the MNBA unit. Butler must take into account the requests of other newspaper vendors, in an effort to coordinate the location of the MNBA units with the requests of all newspaper vendors, in an effort to establish the necessary number of two or more

newsrack boxes in MNBA units. In the event several newspaper vendors select a particular intersection and/or location and identify different corners and/or locations. Butler will consolidate those requests into the MNBA unit and identify the specific location where the MNBA should be placed in accordance with the criteria in this chapter.

- D. Butler shall inform the newspaper vendor no later than 20 business days of receipt of its request as to the location of the MNBA unit wherein such vendor may place its papers for distribution from a newsrack box. In the event Butler selects an alternative location or locations to the one requested by the vendor, Butler will recite its reasons as to why the alternate location or locations in question had been selected.
- E. A newspaper vendor is permitted to make as many requests as is reasonably necessary for the distribution of its newspapers in the Borough of Butler. There is no limitation on the reasonable number of requests or on the reasonable number of locations that a particular newspaper vendor may utilize in accordance with this chapter.
- F. At the adoption of this chapter, freestanding newsracks exist at various locations in the Borough of Butler. In the event one or more of such locations are requested by newspaper vendors who presently have a freestanding newsrack at such locations, such newspaper vendor's request shall receive preference as to a newsrack box in an MNBA unit at such location or the alternative to such location.
- G. The earliest received location request shall have a preference over subsequent requests for the same location or alternate to that location.
- H. In the event the newspaper vendor disagrees with Butler's decision concerning its request for a location or any other decision related to this chapter, such newspaper vendor may request to Butler, in writing, a reconsideration of Butler's decision, stating its position concerning its request for reconsideration. Butler shall respond to such requests for reconsideration within 30 days of its receipt by Butler.

§ 158-8. Selected locations.

- A. Butler has selected the general locations recited hereinbelow as locations for the MNBA units to be installed in accordance with this chapter. The below listed locations are not exhaustive or exclusive. Others may be added by the Borough of Butler on its own and/or at the request of newspaper vendors by resolution without the need to amend this chapter.
- B. The following locations as shown on the plan entitled "Newsrack Vending Machine Program Map" are permissible general locations for the installation of MNBA units, wherein the specific location shall be determined by Butler in accordance with this chapter:
 - (1) Harmon Lot on Boonton Avenue between the sidewalk and parking lot.
 - (2) Main Street (southerly side) directly across from the intersection of Arch Street and Main Street.

- (3) Route 23 Southbound beside the Bus Stop Platform located in the Meadtown parking lot.

§ 158-9. Violations and penalties.

- A. Any person or entity who violates any provision of this chapter shall be notified in writing of such violation and shall have 15 days from the date of the notice to correct the violation.
- B. Any person or entity who violates any provision of this chapter and continues such violation for more than 15 days after having received the above notice shall, upon conviction, be subject to a fine of not more than \$250; each day may be considered a separate offense.

Chapter 160

NOISE

- § 160-1. Definitions.
- § 160-2. Applicability.
- § 160-3. Exceptions.
- § 160-4. Enforcement Officers.
- § 160-5. Measurement Protocols.
- § 160-6. Maximum Permissible Levels.
- § 160-7. Sound Production Devices.
- § 160-8. Restricted Uses and Activities.
- § 160-9. Motor Vehicles.
- § 160-10. Enforcement.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 3-2 of the Revised General Ordinances of 1976. Amended X-XX-XXXX by Ord. No. 2019-01. Amendments noted where applicable.]

GENERAL REFERENCES

[Motorized bicycles — See Ch. 79.](#)
[Dogs — See Ch. 108.](#)

[Land use — See Ch. 143.](#)
[Parks and recreation areas — See Ch. 168.](#)

§ 160-1 Definitions

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise. Terms not defined in this ordinance have the same meaning as those defined in N.J.A.C. 7:29.

"Construction" means any site preparation, assembly, erection, repair, alteration or similar action of buildings or structures.

"dBC" means the sound level as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors. The unit of reporting is dB(C). The "C" weighting network is more sensitive to low frequencies than is the "A" weighting network.

"Demolition" means any dismantling, destruction or removal of buildings, structures, or roadways.

"Department" means the New Jersey Department of Environmental Protection.

"Emergency work" means any work or action necessary at the site of an emergency to restore or deliver essential services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions or a state of emergency declared by a governing agency.

"Impulsive sound" means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one second.

“Minor Violation” means a violation that is not the result of the purposeful, reckless or criminally negligent conduct of the alleged violator; and/or the activity or condition constituting the violation has not been the subject of an enforcement action by any authorized local, county or state enforcement agency against the violator within the immediately preceding 12 months for the same or substantially similar violation.

"Motor vehicle" means any vehicle that is propelled other than by human or animal power on land.

"Muffler" means a properly functioning sound dissipative device or system for abating the sound on engines or equipment where such device is part of the normal configuration of the equipment.

"Multi-dwelling unit building" means any building comprising two or more dwelling units, including but not limited to, apartments, condominiums, co-ops, multiple family houses, townhouses, and attached residences.

"Multi-use property" means any distinct parcel of land that is used for more than one category of activity. Examples include, but are not limited to:

1. A commercial, residential, industrial or public service property having boilers, incinerators, elevators, automatic garage doors, air conditioners, laundry rooms, utility provisions, or health and recreational facilities, or other similar devices or areas, either in the interior or on the exterior of the building, which may be a source of elevated sound levels at another category on the same distinct parcel of land; or

2. A building, which is both commercial (usually on the ground floor) and residential property, located above, below or otherwise adjacent to.

"Noise Control Officer" (NCO) means an employee of a local, county or regional health agency which is certified pursuant to the County Environmental Health Act (N.J.S.A. 26:3A2-21 et seq.) to perform noise enforcement activities or an employee of a municipality with a Department-approved model noise control ordinance. All NCOs must receive noise enforcement training as specified by the Department in N.J.A.C. 7:29 and is currently certified in noise enforcement. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

“Noise Control Investigator” (NCI) means an employee of a municipality, county or regional health commission that has a Department-approved model noise control ordinance and the employee has not received noise enforcement training as specified by the Department in N.J.A.C. 7:29. However, they are knowledgeable about their model noise ordinance and enforcement procedures. A Noise Control Investigator may only enforce sections of the ordinance that do not require the use of a sound level meter. The employee must be acting within his or her designated jurisdiction and must be authorized to issue a summons.

"Plainly audible" means any sound that can be detected by a NCO or an NCI using his or her unaided hearing faculties of normal acuity. As an example, if the sound source under investigation is a portable or vehicular sound amplification or reproduction device, the detection of the rhythmic bass component of the music is sufficient to verify plainly audible sound. The NCO or NCI need not determine the title, specific words, or the artist performing the song.

"Private right-of-way" means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a non-governmental entity.

"Public right-of-way" means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

"Public space" means any real property or structures thereon that are owned, leased, or controlled by a governmental entity.

"Real property line" means either (a) the vertical boundary that separates one parcel of property (i.e., lot and block) from another residential or commercial property; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building; or (c) on a multi-use property as defined herein, the vertical or horizontal boundaries between the two portions of the property on which different categories of activity are being performed (e.g., if the multi-use property is a building which is residential upstairs and commercial downstairs, then the real property line would be the interface between the residential area and the commercial area, or if there is an outdoor sound source such as an HVAC unit on the same parcel of property, the boundary line is the exterior wall of the receiving unit). Note- this definition shall not apply to a commercial source and a commercial receptor which are both located on the same parcel of property (e.g., a strip mall).

"Sound production device" means any device whose primary function is the production of sound, including, but not limited to any, musical instrument, loudspeaker, radio, television, digital or analog music player, public address system or sound-amplifying equipment.

"Sound reduction device" means any device, such as a muffler, baffle, shroud, jacket, enclosure, isolator, or dampener provided by the manufacturer with the equipment, or that is otherwise required, that mitigates the sound emissions of the equipment.

"Weekday" means any day that is not a federal holiday, and beginning on Monday at 7:00 a.m. and ending on the following Friday at 6:00 p.m.

"Weekends" means beginning on Friday at 6:00 p.m. and ending on the following Monday at 7:00 a.m.

§ 160-2 Applicability

(A) This noise ordinance applies to sound from the following property categories:

1. Industrial facilities;
2. Commercial facilities;
3. Public service facilities;
4. Community service facilities;
5. Residential properties;
6. Multi-use properties;
7. Public and private right-of-ways;
8. Public spaces; and
9. Multi-dwelling unit buildings.

(B) This noise ordinance applies to sound received at the following property categories:

1. Commercial facilities;
2. Public service facilities;
3. Community service facilities (i.e. non-profits and/or religious facilities)
4. Residential properties;
5. Multi-use properties;
6. Multi-dwelling unit buildings.

I Sound from stationary emergency signaling devices shall be regulated in accordance with N.J.A.C. 7:29-1.4, except that the testing of the electromechanical functioning of a stationary emergency signaling device shall not meet or exceed 10 seconds.

§ 160-3 Exemption

(A) Except as provided in Sections 160- 8 and 9 below, the provisions of this ordinance shall not apply to the exceptions listed at N.J.A.C. 7:29-1.5.

(B) Sound production devices required or sanctioned under the Americans with Disabilities Act (ADA), FEMA or other government agencies to the extent that they comply with the noise requirement of the enabling legislation or regulation. Devices which are exempted under N.J.A.C. 7:29-1.5 shall continue to be exempted.

I Construction and demolition activities are exempt from the sound level limits set forth in tables I and II and III except as provided for in. Section 160-8 below.

§ 160-4 Enforcement Officers

(A) Noise Control Officers shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance and pursue enforcement activities.

(B) Noise Control Investigators shall have the authority within their designated jurisdiction to investigate suspected violations of any section of this ordinance that do not require the use of a sound level meter (i.e., plainly audible, times of day and/or distance determinations) and pursue enforcement activities.

(C) Noise Control Officers and Investigators may cooperate with NCOs and NCIs of an adjacent municipality in enforcing one another's municipal noise ordinances.

§160-5 Measurement Protocols

(A) Sound measurements made by a Noise Control Officer shall conform to the procedures set forth at N.J.A.C. 7:29-2, except that interior sound level measurements shall also conform with the procedures set forth in Section 160-5 (B) of this ordinance and with the definition of "real property line" as contained herein.

(B) When conducting indoor sound level measurements across a real property line the measurements shall be taken at least three feet from any wall, floor or ceiling and all exterior doors and windows may, at the discretion of the investigator, be closed. The neighborhood residual sound level shall be measured in accordance with N.J.A.C. 7:29-2.9(b)2. When measuring total sound level, the configuration of the windows and doors shall be the same and all sound sources within the dwelling unit must be shut off (e.g., television, stereo). Measurements shall not be taken in areas which receive only casual use such as hallways, closets and bathrooms.

§160-6 Maximum Permissible Sound Levels

(A) No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property listed in 160-2 (A) above in such a manner as to create a sound level that equals or exceeds the sound level limits set forth in Tables I, II or III when measured at or within the real property line of any of the receiving properties listed in Tables I, II or III except as specified in 160-5 B.

(B) Impulsive Sound

Between 7:00 a.m. and 10:00 p.m., impulsive sound shall not equal or exceed 80 decibels. Between 10:00 p.m. and 7:00 a.m., impulsive sound which occurs less than four times in any hour shall not equal or exceed 80 decibels. Impulsive sound which repeats four or more times in any hour shall be measured as continuous sound and shall meet the requirements as shown in Tables I and II.

TABLE I
MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS
WHEN MEASURED OUTDOORS

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility
TIME	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 hours
Maximum A- Weighted sound level standard, dB	65	50	65

TABLE II
MAXIMUM PERMISSIBLE A-WEIGHTED SOUND LEVELS
WHEN MEASURED INDOORS

RECEIVING PROPERTY CATEGORY	Residential property, or residential portion of a multi-use property		Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility
TIME	7 a.m.-10 p.m.	10 p.m.-7 a.m.	24 hours
Maximum A- Weighted sound level standard, dB	55	40	55

Note: Table II shall only apply when the source and the receptor are separated by a real property line and they also share a common or abutting wall, floor or ceiling, or are on the same parcel of property.

**TABLE III
MAXIMUM PERMISSIBLE OCTAVE BAND
SOUND PRESSURE LEVELS IN DECIBELS**

Receiving Property Category	Residential property, or residential portion of a multi-use property		Residential property, or residential portion of a multi-use property		Commercial facility, public service facility, non-residential portion of a multi-use property, or community service facility	Commercial facility or non-residential portion of a multi-use property
	OUTDOORS		INDOORS		OUTDOORS	INDOORS
Octave Band Center Frequency, Hz.	Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB		Octave Band Sound Pressure Level, dB	Octave Band Sound Pressure Level, dB
Time	7a.m.-10p.m.	10p.m.-7a.m.	7a.m.-10p.m.	10p.m.-7a.m.	24 hours	24 hours
31.5	96	86	86	76	96	86
63	82	71	72	61	82	72

125	74	61	64	51	74	64
250	67	53	57	43	67	57
500	63	48	53	38	63	53
1,000	60	45	50	35	60	50
2,000	57	42	47	32	57	47
4,000	55	40	45	30	55	45
8,000	53	38	43	28	53	43

Note: When octave measurements are made, the sound from the source must be constant in level and character. If octave band sound pressure level variations exceed plus or minus 2 dB in the bands containing the principal source frequencies, discontinue the measurement.

§160-7 Sound Production Devices

No person shall cause, suffer, allow, or permit the operation of any sound production device in such a manner that the sound crosses a property line and raises the total sound levels above the neighborhood residual sound level by more than the permissible sound level limits set forth in Table IV when measured within the residence of a complainant according to the measurement protocol in 160-5 (B) of this ordinance. These sound level measurements shall be conducted with the sound level meter set for "C" weighting, "fast" response.

TABLE IV
MAXIMUM PERMISSIBLE INCREASE IN TOTAL SOUND LEVELS
WITHIN A RESIDENTIAL PROPERTY

Week Nights 10:00 p.m. – 7: a.m. Weekend nights 11:00 p.m. and 9:00 a.m.	All other times
3 dB(C)	6 dB(c)

§160-8 Restricted Uses and Activities

The following standards shall apply to the activities or sources of sound set forth below:

A. Excluding emergency work, power tools, home maintenance tools, landscaping and/or yard maintenance equipment used by a residential property owner or tenant shall not be operated between the hours of 8:00 p.m. and 8:00 a.m., unless such activities can meet the applicable limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.

B. Excluding emergency work, power tools, landscaping and/or yard maintenance equipment used by nonresidential operators (e.g. commercial operators, public employees) shall not be operated on a residential, commercial, industrial or public (e.g. golf course, parks, athletic fields) property between the hours of 6:00 p.m. and 8:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends or federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in these activities shall be operated with a muffler and/or sound reduction device.

C. All construction and demolition activity, excluding emergency work, shall not be performed between the hours of 6:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 9:00 a.m. on weekends and federal holidays, unless such activities can meet the limits set forth in Tables I, II or III. At all other times the limits set forth in Tables I, II or III do not apply. All motorized equipment used in construction and demolition activity shall be operated with a muffler and/or sound reduction device.

D. Motorized snow removal equipment shall be operated with a muffler and/or a sound reduction device when being used for snow removal. At all other times the limits set forth in Tables I, II or III do not apply.

E. All interior and exterior burglar alarms of a building or motor vehicle must be activated in such a manner that the burglar alarm terminates its operation within five (5) minutes for continuous airborne sound and fifteen (15) minutes for intermittent sound after it has been activated. At all other times the limits set forth in Tables I, II or III do not apply.

F. Self-contained, portable, non-vehicular music or sound production devices shall not be operated on a public space or public right-of-way in such a manner as to be plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., sound, operated on a public space or public right-of-way, from such equipment shall not be plainly audible at a distance of 25 feet in any direction from the operator;

G. It shall be unlawful for any property owner or tenant to allow any domesticated or caged animal to create a sound across a real property line which unreasonably disturbs or interferes with the peace, comfort, and repose of any resident, or to refuse or intentionally fail to cease the unreasonable noise when ordered to do so by a Noise Control Officer or Noise Control

Investigator. Prima facie evidence of a violation of this section shall include but not be limited to:

- (1) Vocalizing (howling, yelping, barking, squawking etc.) for five (5) minutes without interruption, defined as an average of four or more vocalizations per minute in that period; or,
- (2) Vocalizing for twenty (20) minutes intermittently, defined as an average of two vocalizations or more per minute in that period.

It is an affirmative defense under this subsection that the dog or other animal was intentionally provoked to bark or make any other noise.

§160-9 Motor Vehicles

Violations of each paragraph of this section shall be considered purposeful and therefore non-minor violations.

(A) No person shall remove or render inoperative, or cause to be removed or rendered inoperative or less effective than originally equipped, other than for the purposes of maintenance, repair, or replacement, of any device or element of design incorporated in any motor vehicle for the purpose of noise control. No person shall operate a motor vehicle or motorcycle which has been so modified. A vehicle not meeting these requirements shall be deemed in violation of this provision if it is operated stationary or in motion in any public space or public right-of-way.

(B) No motorcycle shall be operated stationary or in motion unless it has a muffler that complies with and is labeled in accordance with the Federal Noise Regulations under 40 CFR Part 205.

(C) Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that it is plainly audible at distance of 25 feet in any direction from the operator between the hours of 10:00 p.m. and 8:00 a.m.

(D) Personal or commercial vehicular music amplification or reproduction equipment shall not be operated in such a manner that is plainly audible at a distance of 50 feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m.

§160-10 Enforcement

(A) Violation of any provision of this ordinance shall be cause for a Notice of Violation (NOV) or a Notice of Penalty Assessment (NOPA) document to be issued to the violator by the Noise Control Officer or Noise Control Investigator.

(B) Any person who violates any provision of this ordinance shall be subject to a civil penalty for each offense of not more than the maximum penalty pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of December 2014. If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate, and distinct offense.

(C) Upon identification of a violation of this Ordinance the Noise Control Officer or Noise Control Investigator shall issue an enforcement document to the violator. The enforcement document shall identify the condition or activity that constitutes the violation and the specific provision of this Ordinance that has been violated. It shall also indicate whether the violator has a period of time to correct the violation before a penalty is sought.

(D) If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a minor violation (as defined in Section 160-1 of this ordinance) a NOV shall be issued to the violator.

1. The document shall indicate that the purpose of the NOV is intended to serve as a notice to warn the responsible party/violator of the violation conditions in order to provide them with an opportunity to voluntarily investigate the matter and voluntarily take corrective action to address the identified violation.

2. The NOV shall identify the time period (up to 90 days), pursuant to the Grace Period Law, N.J.S.A. 13:1D-125 et seq. where the responsible party's/violator's voluntary action can prevent a formal enforcement action with penalties issued by the Health Department. It shall be noted that the NOV does not constitute a formal enforcement action, a final agency action or a final legal determination that a violation has occurred. Therefore, the NOV may not be appealed or contested.

(E) If the violation is deemed by the Noise Control Officer or Noise Control Investigator to be a non-minor violation, the violator shall be notified that if the violation is not immediately corrected, a NOPA with a civil penalty of not more than the maximum penalty allowed pursuant to N.J.S.A. 40:49-5, which is \$2,000 as of December 2014, will be issued. If a non-minor violation is immediately corrected, a NOV without a civil penalty shall still be issued to document the violation. If the violation occurs again (within 12 months of the initial violation) a NOPA shall be issued regardless of whether the violation is immediately corrected or not.

(F) The violator may request from the Noise Control Officer or Noise Control Investigator, an extension of the compliance deadline in the enforcement action. The Noise Control Officer or Noise Control Investigator shall have the option to approve any reasonable request for an extension (not to exceed 180 days) if the violator can demonstrate that a good faith effort has been made to achieve compliance. If an extension is not granted and the violation continues to exist after the grace period ends, a NOPA shall be issued.

(G) The recipient of a NOPA shall be entitled to a hearing in a municipal court having jurisdiction to contest such action.

(H) The Noise Control Officer or Noise Control Investigator may seek injunctive relief if the responsible party does not remediate the violation within the period of time specified in the NOPA issued.

(I) Any claim for a civil penalty may be compromised and settled based on the following factors:

1. Mitigating or any other extenuating circumstances;
2. The timely implementation by the violator of measures which lead to compliance;
3. The conduct of the violator; and
4. The compliance history of the violator.

1. Editor's Note: See Part 6, Zoning, of Ch. 143, Land Use.

Chapter 165

OUTDOOR MARKETS

§ 165-1. Definitions.

§ 165-2. License required.

§ 165-3. Applications for licenses.

§ 165-4. Proprietor licensing and responsibility.

§ 165-5. Display of license.

§ 165-6. Hours of operation.

§ 165-7. Limitation to public right-of-way.

§ 165-8. Cancellation of events.

§ 165-9. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 8-20-2002 by Ord. No. 2002-38. Amendments noted where applicable.]

GENERAL REFERENCES

[Licensing — See Ch. 150.](#)

§ 165-1. Definitions.

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

BOROUGH — The Borough of Butler.

MARKET — A place where goods are sold to the public.

OUTDOOR MARKET — A market, out of doors, where new or used items are sold from individual locations, with each location being operated independently from the other locations. Items sold include but are not limited to sale of food and beverages, household items, antiques, rare items, decorations, clothing, used books and magazines.

PROPRIETOR — Any person, persons, firms, association, partnership, corporation or any other entity which operates an outdoor market as defined herein.

§ 165-2. License required.

No proprietor shall operate an outdoor market without having first obtained a license.

§ 165-3. Applications for licenses.

Application for a license hereunder shall be filed in writing with the form to be provided by the Municipal Clerk. The application shall specify:

- A. The name, address and telephone number of the applicant, and if a firm, corporation, partnership or association, the principal officers, the registered agent's name and address and owners of an interest in excess of 10% and their addresses;

- B. A general description of the type of merchandise being offered for sale by the proprietor;
and
- C. The date, time and place of the proposed sale of the merchandise.

§ 165-4. Proprietor licensing and responsibility.

- A. The proprietor of any event shall apply to the municipality for authorization to conduct an outdoor market. The fee for each license shall be \$250.
- B. Insurance. As a condition precedent to obtaining a license, the proprietor shall, at no expense to the municipality, secure and maintain during the full term of the license general comprehensive liability insurance issued by one or more companies authorized to do business in the state, which insurance shall fully protect the Borough from any and all claims and risks in connection with the operation of an outdoor market and provide at a minimum \$1,000,000 per person, per occurrence. The policy must specifically name the Borough of Butler as an additional insured party, and shall contain substantially the following language:

"The coverage provided by this policy to the Borough of Butler shall not be terminated, reduced, or otherwise changed in any respect without providing at least 30 days' prior written notice to the Borough."

- C. The proprietor shall, as a condition precedent to obtaining a proprietor's license, enter into an agreement with the Mayor and governing body detailing the mutual obligations and responsibilities of the respective parties.

§ 165-5. Display of license.

The license issued shall be prominently displayed by the proprietor at his location for the sale of tangible personal property at all times during the conduct of any such sale.

§ 165-6. Hours of operation.

Outdoor market hours shall be as designated in the license.

§ 165-7. Limitation to public right-of-way.

There shall be a limitation to the public right-of-way or other designated area as the Mayor and Council shall direct by a duly adopted resolution of approval.

§ 165-8. Cancellation of events.

The Borough Administrator or his designee or the proprietor of the outdoor market shall have the authority to affect closure of said outdoor market.

§ 165-9. Violations and penalties. [Amended 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 168

PARKS AND RECREATION AREAS

§ 168-1. Rules and regulations.

§ 168-2. Permits for special events.

§ 168-3. Enforcement.

§ 168-4. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 3-8 of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Board of Recreation Commissioners — See Ch. 44.](#)

[Alcoholic beverages — See Ch. 67.](#)

[Motorized bicycles — See Ch. 79.](#)

[Cats — See Ch. 93.](#)

[Dogs — See Ch. 108.](#)

[Explosives — See Ch. 117.](#)

[Land use — See Ch. 143.](#)

[Littering — See Ch. 153.](#)

[Noise — See Ch. 160.](#)

§ 168-1. Rules and regulations.

A. Restrictions. No person in public parks or recreation areas shall:

- (1) Willfully mark, deface, disfigure, injure, tamper with or displace or remove any building, bridges, tables, benches, fireplaces, railings, paving or paving material, waterlines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.
- (2) Fail to cooperate in maintaining rest rooms and washrooms in a neat and sanitary condition. No person over the age of six years shall use the rest rooms and washrooms designated for the opposite sex.
- (3) Dig or remove any beach sand, whether submerged or not, or any soil, rock, stones, trees, shrubs or plants, down-timber or other wood or materials, or make any excavation by tool, equipment, blasting or other means or agency.
- (4) Construct or erect any building or structure of whatever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on special written permit issued hereunder.
- (5) Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant. Nor shall any person attach any rope, wire or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area.

- (6) Climb any tree or walk, stand or sit upon monuments, vases, fountains, railings, fences or upon any other property not designated or customarily used for such purposes.
 - (7) Tie or hitch an animal to any tree or plant.
 - (8) Hunt, molest, harm, frighten, kill, trap, chase, tease, shoot or throw missiles at any animal, reptile or bird; nor shall be remove or have in his possession the young of any wild animal or the eggs or nest or young of any reptile or bird; nor shall be collect, remove, have in his possession, give away, sell or offer to sell or buy or offer to buy or accept as a gift any specimen, alive or dead, of any of the group of tree snails. **[Amended 2-14-1989 by Ord. No. 8-89]**
 - (9) Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such water, any substance, matter or thing liquid or solid, which shall or may result in the pollution of the waters.
 - (10) Have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided. Where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.
 - (11) Drive any vehicle on any area except the paved park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the Recreation Commission.
 - (12) Park a vehicle in other than an established or designated parking area, and such use shall be in accordance with the posted directions thereat and with the instructions of any attendant who may be present.
 - (13) Leave a vehicle standing or parked at night in established parking areas or elsewhere in park areas.
- B. Recreation areas. In areas of parks and public lands designated as recreation areas, no person shall:
- (1) Hunt, trap or pursue wildlife at any time. No person shall use, carry or possess firearms of any description, or air-rifles, spring-guns, bow-and-arrows, slings or any other forms of weapons potentially inimical to wildlife and dangerous to human safety, or any instrument that can be loaded with and fire blank cartridges, or any kind of trapping device. Shooting into park areas from beyond park boundaries shall be forbidden.
 - (2) Picnic or lunch in a place other than those designated for that purpose. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and

convenience of all. Visitors shall comply with any directions given to achieve this end.

- (3) Violate the regulation that use of tables and benches follows generally the rule of first come, first served.
 - (4) Use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other persons, nor shall any person use such area and facilities for an unreasonable time if the facilities are crowded.
 - (5) Leave a picnic area before a fire is completely extinguished and before all trash in the nature of boxes, papers, cans, bottles, garbage and other refuse is placed in the disposal receptacles where provided. If no such trash receptacles are available, then refuse and trash shall be carried away from the park area by the picnicker to be properly disposed of elsewhere.
 - (6) Set up tents, shacks or any other temporary shelter for the purpose of overnight camping, nor shall any person leave in a park after closing hours any movable structure or special vehicle to be used or that could be used for such purpose, such as a house trailer, camp trailer, camp wagon, or the like.
 - (7) Take a part in or abet the playing of any games involving thrown or otherwise propelled objects such as balls, stones, arrows, javelins or model airplanes, except in areas set apart for such forms of recreation. The playing of rough or comparatively dangerous games such as football, baseball and quoits is prohibited except on the fields and courts or areas provided therefor. Roller skating shall be confined to those areas specifically designated for such pastime.
- C. Rules of conduct. While in a public park or recreation area, all persons shall conduct themselves in a proper and orderly manner, and, in particular, no person shall:
- (1) Bring alcoholic beverages, drink the same at any time nor shall any person be under the influence of intoxicating liquor in a park or recreation area, provided, however, permission to serve and consume alcoholic beverages at group functions held on or in the public park, or recreation areas may be permitted upon specific request and at the discretion of the recreation commission. Such specific request shall be made in writing to the Recreation Commission and, if approved, a special permit shall be issued to the applicant specifying the date and time which the permit will cover.
 - (2) Have in his possession, or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedo, rocket or other fireworks or explosives of inflammable material, or discharge them or throw them into any such areas from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints. At the discretion of the recreation commission, permits may be given for conducting properly supervised fireworks in designated areas.

- (3) Be responsible for the entry of a dog or other domestic animal into areas other than automobile parking concourses and walks immediately adjacent thereto, and in such other areas as may be clearly marked by signs bearing the words "Domestic Animals Permitted In This Area." Nothing herein shall be construed as permitting the running of dogs at large. All dogs in those areas where such animals are permitted shall be restrained at all times on adequate leashes not greater than six feet in length.
- (4) Occupy any seat or bench, or enter into or loiter or remain in any pavilion or other park structure or section thereof which may be reserved and designated by the Recreation Commission for the use of the opposite sex. Exception is made for children under six years of age.
- (5) Appear at any place in other than proper clothing.
- (6) Solicit alms or contributions for any purpose, whether public or private.
- (7) Build or attempt to build a fire except in those specifically designated areas, using the proper facilities that are provided.
- (8) Enter an area posted as "Closed to the Public," nor shall any person use, or abet the use of any area in violation of posted notices.
- (9) Gamble, or participate in or abet any game of chance.
- (10) Go onto the ice on any of the waters, except such areas as are designated as skating fields and provided a safety signal is displayed.
- (11) Sleep or protractedly lounge on the seats or benches or other areas, or engage in loud, boisterous, threatening, abusive, insulting or indecent language, or engage in any disorderly conduct or behavior tending to a breach of the public peace.
- (12) Fail to produce and exhibit any permit from the Recreation Commission he claims to have upon request of any authorized person who shall desire to inspect the same for the purpose of enforcing compliance with any ordinance or rule.
- (13) Disturb or interfere unreasonably with any person or party occupying any area, or participating in any activity, under the authority of a permit.
- (14) Expose or offer for sale any article or thing, nor shall be station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing. Exception is here made as to any regularly licensed concessionaire acting by and under the authority and regulation of the recreation commission.
- (15) Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever, nor shall any person erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a park.
- (16) Smoke tobacco products in any and all municipal operated recreation areas to include, but not be limited to, playgrounds, parks, ballfields, and public recreational swimming areas leased or owned by the Borough of Butler. **[Added 12-19-2006 by Ord. No. 2006-29]**

D. Bicycles. No person in a public park or recreation area shall:

- (1) Ride a bicycle on other than a paved vehicular road or path designated for that purpose. A bicyclist shall be permitted to wheel or push a bicycle by hand over any grassy area or wooded trail or on any paved area reserved for pedestrian use.
- (2) Ride a bicycle other than on the right-hand side of the road paving as close as conditions permit, and bicycles shall be kept in single file when two or more are operating as a group. Bicyclists shall at all times operate their machines with reasonable regard to the safety of others, signal all turns, pass to the right of any vehicle they are overtaking, and pass to the right of any vehicle they may be meeting.
- (3) Ride any other person on a bicycle.
- (4) Leave a bicycle in a place other than a bicycle rack when such is provided and there is a space available.
- (5) Leave a bicycle lying on the ground or paving, or set against trees, or in any place or position where other persons may trip over or be injured by it.
- (6) Ride a bicycle on any road or bicycle path between 15 minutes after sunset or 15 minutes before sunrise.

E. Hours of operation.

- (1) All public parks and recreation areas shall be officially declared closed between the hours of 30 minutes after sundown and 30 minutes before sunrise. All reference to night time, after hours, dark, before opening, after closing, etc., shall refer to the closing hours of those public parks and recreation areas as described in this subsection.
- (2) Permission to use the public parks and recreation areas after designated closing hours may be granted at the discretion of the Recreation Commission upon specific request.

F. Additional regulations. Additional regulations shall be as follows:

- (1) Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year during designated hours. The opening and closing hours for each individual park shall be posted therein for public information, and shall be determined from time to time by resolution of the Borough Council.
- (2) Any section or part of any park may be declared closed to the public by the Recreation Commission at any time and for any interval of time, either temporarily or at regular and stated intervals, daily or otherwise, and either entirely or merely to certain uses, as the Recreation Commission shall find reasonably necessary.

§ 168-2. Permits for special events.

- A. Application procedures. Permits for special events in parks shall be obtained by application to the Recreation Commission in accordance with the following procedure. A person seeking issuance of a permit hereunder shall file an application with the Recreation Commission stating:
- (1) The name and address of the applicant.
 - (2) The name and address of the person sponsoring the activity, if any.
 - (3) The day and hours for which the permit is desired.
 - (4) The park or portion thereof for which such permit is desired.
 - (5) An estimate of the anticipated attendance.
 - (6) Any other information which the Recreation Commission shall find reasonably necessary to a fair determination as to whether a permit should issue hereunder.
- B. Standards for issuance. The Recreation Commission shall issue a permit hereunder when it finds:
- (1) That the proposed activity or use of the park shall not unreasonably interfere with or detract from the general public enjoyment of the park.
 - (2) That the proposed activity and use shall not unreasonably interfere with or detract from the promotion of public health, welfare, safety and recreation.
 - (3) That the proposed activity or use is not reasonably anticipated to incite violence, crime or disorderly conduct.
 - (4) That the proposed activity will not entail unusual, extraordinary or burdensome expense or police operation by the Borough.
 - (5) That the facilities desired have not been reserved for other use at the day and hour required in the application.
- C. Appeal. Within five days after receipt of an application, the Recreation Commission shall apprise an applicant in writing of its reasons for refusing a permit, and any aggrieved persons shall have the right to appeal, in writing within five days to the Borough Council, which shall consider the application under the standards set forth in Subsection B hereof and sustain or overrule the Recreation Commission's decision within five days. The decision of the Borough Council shall be final.
- D. Compliance with all rules and regulations required.
- (1) A permittee shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in the permits.
 - (2) The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person to whom such permit shall have been issued.

- E. Revocation. The Recreation Commission shall have the authority to revoke a permit upon a finding of violation of any rule or ordinance, or upon good cause shown.

§ 168-3. Enforcement.

- A. The Recreation Commission and park attendants shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.
- B. The Recreation Commission and any park attendant shall have the authority to eject from the park any person acting in violation of the provisions of this chapter.
- C. The Recreation Commission and any park attendant shall have the authority to seize and confiscate any property, thing or device in the park, or used, in violation of the provisions of this chapter.
- D. This chapter shall also be enforced by the Police Department.

§ 168-4. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 171
(RESERVED)

[Former Ch. 171, Peddling and Hawking, adopted as Section 4-3 of the Revised General Ordinances of 1976, as amended, was repealed 12-10-1991 by Section 1 of Ord. No. 1991-18. See now Ch. 91, Canvassers, Solicitors and Peddlers.]

Chapter 172
PEACE AND GOOD ORDER

§ 172-1. Public Urination.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 8-10-2010 by Ord. No. 2010-8.]

§ 172-1. Public Urination.

It shall be unlawful to urinate outdoors upon any property whether public, quasi-public or private with the Borough of Butler.

Chapter 173

POLICE ESCORT SERVICE

§ 173-1. Authorization to provide service.

§ 173-2. Scheduling.

§ 173-3. Fee.

§ 173-4. Billing.

§ 173-5. Failure to pay bill.

§ 173-6. Exemption from fees.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 4-4-1983 by Ord. No. 3-83. Amendments noted where applicable.]

GENERAL REFERENCES

[Police Department — See Ch. 40.](#)

§ 173-1. Authorization to provide service.

The Police Department of the Borough of Butler may provide police escort service to any person, firm or corporation residing in the Borough of Butler or having a place of business located within the Borough of Butler at the request of said person, firm or corporation for the transportation of money or other valuables within the Borough. Police escort service outside the Borough of Butler, not to exceed a ten-mile radius, may also be provided.

§ 173-2. Scheduling.

Police escort service shall be scheduled and provided by the Chief of Police of the Borough of Butler so as not to interfere with the duties of the Police Department of the Borough of Butler.

§ 173-3. Fee.

The Borough shall be paid a fee of \$10 for each police escort service provided within the Borough.

§ 173-4. Billing.

The Chief of Police shall advise the Borough Administrator weekly as to the persons, firms or corporations to be billed and the amounts. The Borough Administrator shall bill weekly for the service, and amounts billed shall be paid within 10 days of billing.

§ 173-5. Failure to pay bill.

Any person, firm or corporation failing to pay any billing for police escort within 30 days of billing shall not be provided further police escort service until full payment of all arrears is made to the Borough Administrator.

§ 173-6. Exemption from fees.

No fees for police escort service shall be charged to charitable or religious associations or corporations.

Chapter 174

POOL AND BILLIARDS

- § 174-1. License required.
- § 174-2. Application.
- § 174-3. Fees; forfeiture upon revocation.
- § 174-4. Condition of premises cause for denial.
- § 174-5. Location restrictions.
- § 174-6. Hours.
- § 174-7. Age limitation.
- § 174-8. Card playing; alcoholic beverages.
- § 174-9. Premises to be on first floor; illumination of interior.
- § 174-10. Display of license and other regulations.
- § 174-11. Exceptions.
- § 174-12. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 4-6 of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Alcoholic beverages — See Ch. 67.](#)
[Fire prevention — See Ch. 122.](#)

[Housing standards — See Ch. 136.](#)
[Licensing generally — See Ch. 150.](#)

§ 174-1. License required.

No person shall maintain, operate, conduct or pursue the business or occupation of keeping any public room or place wherein the games commonly known as pool or billiards are played without having first obtained a license therefor from the Borough Council as hereinafter provided.

§ 174-2. Application.

An application for a license shall be filed with the Borough Clerk on forms to be furnished by him. In addition to the requirements set forth in § 150-2, Applications, of Chapter 150, Licensing, such forms shall include the following information:

- A. In the case of a corporation, the names and addresses of all officers, directors and all stockholders presently holding stock and all who for six months prior to the making of the application have been officers, directors or stockholders.
- B. In the case of clubs or associations, the names and addresses of all officers.
- C. The number of pool tables and billiard tables to be located upon the premises to be licensed.

§ 174-3. Fees; forfeiture upon revocation.

- A. The annual fees to be paid for such license are hereby fixed as follows:
- (1) For the first pool or billiard table located upon the premises to be licensed, \$100. (2) For each additional pool or billiard table located upon the premises to be licensed, \$5.
- B. In the event that any license is suspended, or revoked, the licensee shall not be entitled to the return of any portion of the license fee.

§ 174-4. Condition of premises cause for denial.

Premises which shall be declared to be unsafe or a fire hazard under any ordinance, law or regulation shall be deemed to be ineligible for a license.

§ 174-5. Location restrictions.

No license shall be issued for the operation of any pool or billiard room which is located within 200 feet of any school, church or publicly owned building.

§ 174-6. Hours.

The hours of operation of such pool or billiard rooms shall be between 10:00 a.m. and 2:00 a.m. on weekdays and Saturdays, and between 11:00 a.m. and 2:00 a.m. on Sundays.

§ 174-7. Age limitation.

No person under the age of 16 years shall be admitted to or permitted to play pool or billiards in any licensed premises or to frequent or lounge or congregate or gather in such room or place unless accompanied by his or her parent or guardian.

§ 174-8. Card playing; alcoholic beverages.

In no event shall card playing be permitted on premises licensed under this chapter, nor shall alcoholic beverages be permitted on the premises.

§ 174-9. Premises to be on first floor; illumination of interior.

All premises in which the games of pool and billiards are played shall be on the street floor of any building and shall be so arranged and so lighted that a full view of the interior may be had from the public thoroughfare or from adjacent rooms to which the public is admitted at all hours.

§ 174-10. Display of license and other regulations.

There shall be conspicuously posted and displayed in any premises licensed under the provisions of this chapter:

- A. The license issued pursuant to this chapter.
- B. A copy of the provisions of this chapter which shall be supplied to the licensee by the Borough Clerk.
- C. Not less than one sign giving notice that no person under the age of 16 years shall be permitted upon the licensed premises unless accompanied by his or her parent or guardian.

§ 174-11. Exceptions.

This chapter shall not apply to any religious, charitable, benevolent or nonprofit association or corporation which operates or maintains any pool or billiard table solely for the recreation and amusement of its members, provided that such organization is bona fide in character and is not intended as a means or device for evading the terms and provisions of this chapter, nor shall the provisions of this chapter apply to the keeping of any pool or billiard table in private residences or coin-operated pool or billiard tables which are covered under a separate ordinance.

§ 174-12. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 180

PROPERTY MAINTENANCE

- § 180-1. Purposes.
- § 180-2. Definitions.
- § 180-3. Compliance with provisions.
- § 180-4. Minimum standards; compliance with other regulations.
- § 180-5. Owner, operator and occupant to comply independently.
- § 180-6. Applicability of Uniform Construction Codes.
- § 180-7. Zoning.
- § 180-8. Existing remedies.
- § 180-9. Duties of owners, operators and occupants.
- § 180-10. Unlawful conditions.
- § 180-11. General responsibility.
- § 180-12. Enforcement officer.
- § 180-13. Enforcement procedure.
- § 180-14. Emergency conditions.
- § 180-15. Violations and penalties.
- § 180-16. Abatement of Violations.
- § 180-17. Cost of Abatement a Lien on the Property.
- § 180-18. Certificates of Necessity, Who May Apply.
- § 180-19. Hearing.
- § 180-20. Conditions for Issuance of Certificate.
- § 180-21. Refusal to Comply with Certificate.
- § 180-22. Vacant Storefront.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 12-19-2000 by Ord. No. 2000-32. Amended 6-26-2016 by Ord. No. 2016-15. Amendments noted where applicable.]

GENERAL REFERENCES

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| Numbering of buildings — See Ch. 89. | Housing standards — See Ch. 136. |
| Uniform Construction Codes — See Ch. 101. | Littering — See Ch. 153. |
| Fire prevention — See Ch. 122. | Snow removal — See Ch. 196. |
| Flood damage prevention — See Ch. 124. | Vegetation — See Ch. 223. |
| Garbage, refuse and recyclables — See Ch. 129. | |
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§ 180-1. Purposes.

The purposes of this chapter are to:

- A. Provide for the public health, safety and welfare.
- B. Avoid, prevent and eliminate the maintenance and creation of hazards to the public health and safety.
- C. Avoid, prevent and eliminate conditions which, if permitted to exist or continue, will depreciate or tend to depreciate the value of adjacent or surrounding properties.
- D. Prevent the creation, continuation, extension or aggravation of blight.

- E. Preserve property values in the Borough.
- F. Prevent the physical deterioration or progressive downgrading of the quality of residential dwellings in the Borough.
- G. Maintain the value and economic health of the commercial properties and businesses that serve and help to support the Borough and its citizens.
- H. Prevent and eliminate physical conditions in or on property which constitute nuisances and are thereby potentially dangerous or hazardous to the life, health or safety of persons on or near the premises where such conditions exist.
- I. Establish minimum standards governing the maintenance and condition of lands, buildings, structures and premises in the Borough.
- J. Fix responsibilities and duties therefor upon owners, lessees, operators and occupants of property.
- K. Provide for administration and enforcement.
- L. Fix penalties for the violation of this chapter.

§ 180-2. Definitions.

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

BLIGHT — A condition of deterioration because of structures or improvements which are dilapidated or characterized by disrepair, lack of ventilation or light or sanitary facilities, faulty arrangement, location or design or other unhealthful or unsafe conditions.

EXTERIOR OF PREMISES — Those portions of a building or structure which are exposed to public view or are visible from adjoining or adjacent lots, including all outside surfaces and appurtenances thereto; and the open land space of any premises outside of any building or structure erected thereon.

NUISANCE —

- A. Any public or private condition that would constitute a nuisance according to the statutes, laws and regulations of the State of New Jersey, its governmental agencies or the ordinances of the Borough.

- D. Any physical conditions existing in or on the exterior of any premises which is potentially dangerous, detrimental or hazardous to the life, health or safety of persons on, near or passing within the proximity of premises where such conditions exist.

OCCUPANT — Any person residing, living or sleeping in or on the premises or having actual possession, use or occupancy of a dwelling premises or unit, or operating a business therein, or any person or entity in possession of or using any premises, or part thereof, whether or not the owner thereof and regardless of the duration of time of such possession, use or occupancy.

OPERATOR — Any person, persons or entity not the owner, who has charge, care or control of a dwelling or premises, or a part thereof, with or without the knowledge, consent or authority of the owner.

OWNER — Any person, persons or entity who shall have legal or equitable title in any form whatsoever to any premises or part thereof with or without accompanying actual possession thereof; or who shall have charge, care or control of any lot, premises, building, structure or part thereof, as owner or agent of the owner or as a fiduciary, trustee, receiver, guardian, lessee or mortgagee in possession, regardless of how such possession was obtained. Any person, group of persons or entity who is a lessee, sublessee or assignee of a lease of any part or all of any building, structure or land shall be deemed to be a co-owner with the lessor for the purposes of this chapter and shall have responsibility over the portion of the premises so sublet, leased or assigned.

PREMISES — A lot, plot or parcel of land, right-of-way or multiples thereof, including the buildings or structures thereon.

REFUSE or RUBBISH — All discarded, useless, unusable, unused or worthless solid waste matter or materials, combustible or noncombustible, including, but not limited to, garbage; trash; ashes; paper, paper goods and products; wrappings; cans; bottles; containers; yard clippings; garden refuse; brush and containers of waste materials, chemicals or oil other than garbage containers used and intended to be picked up in the normal weekly scavenger collection service; debris; junk; glass; boxes, crockery; wood; mineral matter; plastic; rubber; leather; furniture; household goods; appliances; fixtures; bedding; scrap lumber; scrap metal, construction material, inoperable machinery or parts thereof; dead or rotting vegetation, excluding compost piles which are not otherwise prohibited in this chapter; abandoned, inoperative, unused or unusable automobiles and vehicles, or parts or components of automobiles, motor vehicles, motorcycles or vehicles of any kind; and solid commercial or industrial waste.

§ 180-3. Compliance with provisions.

Every residential and nonresidential building, structure, lot and the premises or part of the premises on which it is situated in the Borough, previously or presently used or intended to be used for dwelling, commercial, business, recreation, service, transportation, institutional, religious, charitable, quasi-public, professional or industrial occupancy and uses accessory thereto, shall comply with the provisions of this chapter whether or not any such building or structure shall have been constructed, altered or repaired before or after the enactment of this chapter and irrespective of any permits or licenses which may have been issued for the use or occupancy of such building or for the installation or repair of equipment or facilities prior to the effective date of this chapter. Vacant lots, land and premises are also required to comply with the provisions of this chapter.

§ 180-4. Minimum standards; compliance with other regulations.

- A. In any case where the provisions of this chapter impose a higher or stricter standard than set forth in any other ordinance or regulation of the Borough of Butler or under the laws or regulations of the State of New Jersey or any of its agencies, then the standards as set forth herein shall prevail, but if the provisions of this chapter impose a lower or lesser standard than any other regulation or ordinance of the Borough of Butler or of the laws and regulations of the State of New Jersey, or any of its agencies, then the higher standard contained in any such other ordinance, regulation or law shall prevail.
- B. Compliance with this chapter shall not constitute a defense against any violation of any other ordinance of the Borough of Butler applicable to any structure or premises, nor shall any one act of compliance constitute a defense against any subsequent or other violation of this chapter.

§ 180-5. Owner, operator and occupant to comply independently.

Owners, operators and occupants shall have all the duties, obligations and responsibilities prescribed in this chapter, and no such person or entity shall be relieved of any such duty, obligation or responsibility hereunder nor be entitled to assert as a defense against any charge made against him or them for violation of this chapter the fact that another owner, operator or occupant or any other third person or entity is also responsible therefor and in violation thereof.

§ 180-6. Applicability of Uniform Construction Codes.

Any alterations to buildings, structures or appurtenances thereto or changes of use therein, which may be caused directly or indirectly by the enforcement of this chapter, shall be done in accordance with all applicable sections of the Uniform Construction Code of the Borough.¹

§ 180-7. Zoning.

Nothing contained in this chapter or any requirement of compliance herewith shall be deemed to alter, impair or affect the application of the Zoning Ordinance or zoning laws of the Borough.

§ 180-8. Existing remedies.

Nothing in this chapter shall be deemed to abolish or impair existing remedies of the municipality or its officers or agencies relating to the removal or demolition of any buildings or structures which are deemed to be dangerous, unsafe or unsanitary.

§ 180-9. Duties of owners, operators and occupants.

In furtherance of the purposes of this chapter, it shall be the duty and responsibility of the owner, operator or occupant of the premises to comply with any or all of the requirements and standards of this chapter, to keep the premises free of conditions which constitute violations hereof and to promptly remove, prevent or abate such conditions.

§ 180-10. Unlawful conditions.

The exterior of all premises shall be kept free of the following matter, materials or conditions:

- A. Refuse, as hereinabove defined.
- B. Rubbish, as hereinabove defined.

1. Editor's Note: See [Ch. 101, Construction Codes, Uniform.](#)

- C. Abandoned, uncovered or structurally unsound wells, shafts, towers, exterior cellar openings, basement hatchways, foundations or excavations.
- D. Abandoned iceboxes, refrigerators, heaters, television sets and other similar major appliances.
- E. Structurally unsafe or unsound buildings, structures or fences or parts thereof.
- F. Rodents, vermin, pest infestation and rodent harborages.
- G. Animal excrement piles or manure piles within 100 feet of a property line.
- H. Buried refuse or rubbish.
- I. Stagnant surface or ground water accumulations which create or are likely to create mosquito or other insect breeding areas.
- J. Nuisances, as hereinabove defined.
- K. Vehicles, or parts thereof, including construction equipment, boats or trailers, motorized or not, licensed or unlicensed, registered or unregistered, which vehicles or parts thereof are or have been junked, abandoned, dismantled or are in a state of visible disrepair for a period of more than two weeks. This subsection shall take effect only where the conditions described herein are visible from surrounding or adjoining properties. No part of this subsection, however, shall be applicable to properties upon which the business of an automobile body shop or automobile dealership is conducted.
- L. Dangerously loose and overhanging objects, including, but not limited to, dead trees or tree limbs, accumulations of ice or any object, natural or man-made, which could threaten the health and safety of a person if caused to fall, or other similar dangerously loose and overhanging objects, which, by reason of their location above ground level, constitute an actual hazard to persons or vehicles in the vicinity thereof.
- M. Inadequate or unsafe foundations, walls, piers and columns and other similar structurally unsound, damaged or defective load-bearing components which are incapable of bearing imposed loads safely at all points.
- N. Structurally unsound, loose, dangerous, crumbling, missing, broken, rotten or unsafe exterior portions of buildings or structures, including, but not limited to, porches; landings; balconies; stairways; handrails; steps; walls; overhangs; roofs; fences; supporting members; timbers; abutments; fire escapes; signs; loose, crumbling or falling bricks, stones, mortar or plaster.
- O. Exterior surfaces or parts of buildings or structures containing sharp, rough or projecting surfaces or objects which might cause injury to persons coming in contact therewith.
- P. Broken glass or windows; rotten, missing or substantially destroyed window frames and sashes; door frames; exterior component parts of buildings or structures.
- Q. Weeds, brush, stumps, roots which are obnoxious, noxious or detrimental to public health and safety. This includes, but is not limited to, poison ivy, poison oak, poison sumac and ragweed growth. This shall also include dead and dying trees and limbs or other natural

growth, including compost heaps or piles which, by reason of rotting or deteriorating conditions, create obnoxious odors or blighting and unsightly factors for adjoining properties of the Borough of Butler. Under no circumstances are compost heaps or piles permitted within 25 feet from any property line. The provisions of this subsection shall not apply to farm land, pasture land, grazing land, natural or unlandscaped areas and undeveloped tracts.

- R. Garbage or trash dumpsters shall not be maintained in the front yard unless permitted by site plan approval from the Planning Board or Board of Adjustment or municipal approval for temporary construction or renovation purposes.
- S. In all zone districts and upon all properties used for residential purposes in whole or in part, parking spaces shall be on paved or gravel driveways, constructed and installed and located pursuant to the provisions of the Zoning Ordinance and other applicable codes, rules and regulations of the Borough of Butler. Parking of motor vehicles on front lawns, yards or landscaped front yards is prohibited, except for the purpose of temporary emergency or necessity not to exceed a period of 24 hours.
- T. The exterior of all premises, the exterior of structures and condition of accessory structures, including fences and walls of any type, shall be kept structurally sound, in good repair and free from defect, and shall be maintained so that the appearance of the premises and structures shall not constitute a blighting factor for adjoining properties or the Borough of Butler, such as, but not limited to, structural collapse, excessive peeling paint, graffiti, rotting or decay.
- U. Properties with landscaping, lawns, hedges and bushes shall be kept from becoming overgrown and unsightly where exposed to public view, and from becoming a blighting factor for adjoining properties of the Borough of Butler.
- V. General maintenance. The exterior of every structure or accessory structure, including signs and fences, shall be maintained in good repair. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling paint or other conditions reflective of deterioration or inadequate maintenance to the end that the property itself may be preserved, safety and fire hazards eliminated and adjoining properties and the Borough of Butler be protected from blighting influences.

§ 180-11. General responsibility.

Without limitation by the foregoing, it shall also be the duty and responsibility of owners, occupants or operators to keep the exterior of all premises structurally sound, in good general repair and sufficiently maintained to an extent so as to prevent and avoid conditions that violate the purposes of this chapter as hereinabove set forth in § 180-1.

§ 180-12. Enforcement officer.

The Zoning Officer, or any other person appointed by the Borough Administrator, of the Borough of Butler is hereby designated as the officer charged with enforcement of this code and is hereinabove referred to as the "enforcement officer."

§ 180-13. Enforcement procedure. [Amended 6-26-2016 by Ord. No. 2016-15]

Whenever an enforcement officer determines that there is or has been a violation of any provision of this code, he shall give notice of such violation to the person, persons or entities responsible therefor under this chapter. Such notice shall be in writing and shall include a concise statement of the reasons for its issuance. Such notice shall be deemed to be properly and sufficiently served if a copy thereof is sent by mail to the last known address of the person or entity upon which the same is served, as shown by the most recent tax lists of the Borough of Butler, or a copy thereof handed to such person or persons; or a copy thereof left at the usual place of abode or office of such persons or entities. Notice shall be given as aforesaid within or without the Borough. The notice shall also state that unless the violation is abated, removed, cured, prevented or desisted from within 10 days of the date of service of such notice (exclusive of the date of service) a summons shall issue for such violation. The enforcement officer may extend the period for compliance with the violation stated in the notice for a period in excess of the aforesaid 10 days if, in his judgment, the abatement, removal, prevention, cessation of or cure of the condition violated cannot reasonably be effected within the ten-day period. In the event the violation is not abated, removed, cured, prevented or desisted from or otherwise fully remedied within the ten-day period or within such extended period pursuant to the foregoing, a summons shall then issue against the person, persons, entity or entities so notified.

§ 180-14. Emergency conditions. [Amended 6-26-2016 by Ord. No. 2016-15]

Whenever the enforcement officer finds that an emergency condition in violation of this chapter exists, which condition requires immediate attention in order to protect the public health or safety, he may issue an order by service of notice as set forth in § 180-13, reciting the existence of such an emergency condition and requiring that such action be taken by the violator as soon as is reasonably necessary to meet the emergency.

§ 180-15. Violations and penalties. [Amended 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

§ 180-16. Abatement of Violations. . [Added: 8-2-2010 by Ord. No. 2010-7]

In the event that the Enforcement Officer finds that it is necessary and expedient for the preservation of the public health, safety or general welfare, or to eliminate a fire hazard, to destroy, remove, or maintain any grass, brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash or debris, the Enforcement Official, with consent of the Administrator, is hereby authorized to arrange for the destruction, removal, or maintenance of the property. In the event the property owner has not been previously notified of the violation in accordance with this Chapter, the Enforcement Officer shall notify, in writing, the owner and, if occupied by a tenant, the tenant or tenants thereof, to remove or destroy the same. The notice shall contain a copy of this chapter. If the owner or tenant does not remove or destroy the same within 10 days after written notice from the Enforcement Officer, the Enforcement Officer is hereby authorized to cause the offending material to be removed or destroyed.

§ 180-17. Cost of Abatement a Lien on the Property. [Added: 8-2-2010 by Ord. No. 2010-7]

- A. In the event that any grass, brush, weeds, dead and dying trees, stumps, roots, obnoxious growths, filth, garbage, trash or debris is destroyed, removed or maintained by the Borough, the Enforcement Official shall certify the costs thereof to the Borough Administrator, which shall review the cost and if found correct, shall cause the cost as shown thereon to be charged as a lien against said lands.
- B. The amount so charged shall become a lien upon the lands and shall be added to and become and form part of the taxes next to be assessed and levied upon said lands and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officers and in the same manner as taxes.

§ 180-18. Certificates of Necessity, Who may apply.

Any owner, operator or occupant who is required to make repairs or otherwise improve a premises and is unable to comply with this Code without having a right of access to the premises through or across adjoining premises not owned by such person or under such person's control or if a right of access has been refused or if the person empowered to grant such access cannot be found or located, may file an affidavit with the enforcement officer setting forth the applicable facts and applying for a certificate of necessity. The enforcement officer shall give written notice of a hearing on said application to the applicant for such certificate and to the person empowered to grant access by certified or registered mail, return receipt requested. At least ten days notice of such hearing shall be given where the address of the person empowered to grant access is known by the enforcement officer. If the address of the person empowered to grant access is not known by the enforcement officer or cannot be ascertained in the exercise of reasonable diligence, at least thirty days notice of such hearing shall be given.

§ 180-19. Hearing.

On the day fixed for the hearing, the enforcement officer shall provide opportunity for the person empowered to grant access to state why such access should not be granted.

§ 180-20. Conditions for issuance of certificate.

If the enforcement officer determines that access through or across adjoining premises is necessary to accomplish or complete repairs or improvements for compliance with this Code then the enforcement officer shall issue a certificate of necessity granting and ordering access and setting forth therein the person or persons to whom the certificate shall apply, such conditions as shall be necessary to protect adjoining premises, reasonable time limits during which such certificate shall be in effect. Precautions to be taken to avoid damage, and when the enforcement officer deems appropriate. The procurement of a bond at the expense of the person seeking access to secure the adjoining property owner against damage to person or property arising out of such right of access may be required. In setting the amount for a bond, the enforcement officer shall take into consideration the extent, nature, and duration of the repairs and improvements, the proximity thereof to the premises over which access has been sought and the potential risk of damage thereto. Said bond, if required, shall be filed with the enforcement officer.

§ 180-21. Refusal to comply with certificate.

Any refusal to comply with a certificate issued hereunder or any interference with the purpose for which a certificate is issued shall be a violation of this Code and, in addition to the penalties provided hereunder, the enforcement officer may, upon affidavit setting forth the facts, apply to a court of competent jurisdiction for a warrant authorizing access.

§ 180-22. Vacant storefront.

The owner of any commercial building which has a display window facing the street and which becomes vacant shall install a temporary drop screen located a minimum of three feet and a maximum of ten feet back from the window surface in order to obscure the vacant interior of the premises. Such location shall be determined by the availability of places where such screen can be supported. If there are no such supports, the screen can be placed directly in the windows. Such screens shall be opaque and dark in color and may be constructed of cloth, sheetrock, or other similar material but shall not be of plastic or paper. The owner of the premises may install a public service display or other decorative material in the space between the window and the screen.

Chapter 181

REGISTRATION AND MAINTENANCE OF VACANT AND ABANDONED RESIDENTIAL PROPERTIES IN FORECLOSURE

§ 181-1. Definitions.

§ 181-2. Registration of Vacant and Abandoned Properties.

§ 181-3. Fee Schedule.

§ 181-4. Creditor Responsibility for Vacant and Abandoned Properties.

§ 181-5. Notice.

§ 181-6. Violations and Penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 6-26-2016 by Ord. No. 2066-16; Amendments noted where applicable.]

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

CREDITOR - a State chartered bank, savings bank, savings and loan association or credit union, any person or entity required to be licensed under the provisions of the "New Jersey Residential Mortgage Act," P.L. 2009, c.53 (C.17:11C-51 et seq.), any foreclosing entity subject to the provisions of C.46:10B-51 (P.L. 2008, c.127, Sec. 17), as amended from time to time) and any entity acting on behalf of the creditor named in the debt obligation including, but not limited to, servicers.

VACANT AND ABANDONED RESIDENTIAL PROPERTY - consistent with Section 1 of P.L. 2010, c.70 (C.2A:50-73), residential real estate, where a notice of violation has been issued pursuant to Paragraph e. 1 of this Section and subsection b. of section 1 of P.L.2014, c.35 (C.40:48-2.12s). Residential property shall further be deemed Vacant and Abandoned where a mortgaged property is not occupied by a mortgagor or tenant and at least two of the following conditions exist:

- (a) overgrown or neglected vegetation;
- (b) the accumulation of newspapers, circulars, flyers or mail on the property;
- (c) disconnected gas, electric, or water utility services to the property;
- (d) the accumulation of hazardous, noxious, or unhealthy substances or materials on the property;
- (e) the accumulation of junk, litter, trash or debris on the property;
- (f) the absence of window treatments such as blinds, curtains or shutters;
- (g) the absence of furnishings and personal items;
- (h) statements of neighbors, association management, delivery persons, or government employees indicating that the residence is vacant and abandoned;
- (i) windows or entrances to the property that are boarded up or closed off or multiple windowpanes that are damaged, broken and unrepaired;
- (j) doors to the property that are smashed through, broken off, unhinged, or continuously unlocked;

- (k) a risk to the health, safety or welfare of the public, or any adjoining or adjacent property owners, exists due to acts of vandalism, loitering, criminal conduct, or the physical destruction or deterioration of the property;
- (l) an uncorrected violation of a municipal building, housing, or similar code during the preceding year, or an order by municipal authorities declaring the property to be unfit for occupancy and to remain vacant and unoccupied;
- (m) the mortgagee or other authorized party has secured or winterized the property due to the property being deemed vacant and unprotected or in danger of freezing;
- (n) a written statement issued by any mortgagor expressing the clear intent of all mortgagors to abandon the property;
- (o) any other reasonable indicia of abandonment.

§ 181-2. Registration of Vacant and Abandoned Properties.

- A. A Creditor filing a summons and complaint in an action to foreclose on a Vacant and Abandoned Property, or a Creditor who has previously filed a summons and complaint to foreclose on a residential property which subsequently becomes Vacant and Abandoned, shall within thirty (30) calendar days after the building becomes Vacant and Abandoned or within thirty (30) calendar days after assuming ownership of the of the Vacant and Abandoned property, whichever is later; or within ten (10) calendar days of receipt of notice from the Borough, and annually thereafter, file a registration statement for such Vacant and Abandoned property with the municipal clerk on forms provided by the Borough for such purposes. Any failure to receive notice from the Borough shall not constitute grounds for failing to register the Vacant and Abandoned property.
- B. Each Vacant and Abandoned property having a separate block and lot number as designated in the official tax maps of the Borough shall be registered separately.
- C. The registration statement shall include the name, street address, telephone number, and email address (if applicable) of a person twenty-one (21) years or older, designated by the Creditor as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such Creditor in connection with the enforcement of any applicable code.
- D. The registration statement shall include the name, street address, telephone number, and email address (if applicable) of the firm and the actual name(s) of the firm's individual principal(s) responsible for maintaining the Abandoned and Vacant property. The individual or representative of the firm responsible for maintaining the Abandoned and Vacant property shall be available by telephone or in person on a twenty-four-hour per day, seven-day per week basis. The two entities may be the same or different persons. Both entities shown on the statement must maintain offices in the State of New Jersey or reside within the State of New Jersey.
- E. The registration shall remain valid for one year from the date of registration except for the initial registration which shall be valid through December 31st of the year in which it was filed. The Creditor shall be required to renew the registration annually as long as the building remains Vacant and Abandoned and shall pay a registration or renewal fee in the amount prescribed in Paragraph c. of this Section for each Vacant and Abandoned property registered.

- F. The annual renewal shall be completed by January 1st each year. The initial registration fee shall be prorated for registration statements received less than ten (10) months prior to that date.
- G. The Creditor shall notify the municipal clerk within thirty (30) calendar days of any change in the registration information by filing an amended registration statement on a form provided by the municipal clerk for such purpose.
- H. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the Borough against the Creditor.

§ 181-3. Fee Schedule. [Amended 2-21-2023 by Ord. No. 2023-01]

The annual fee for a creditor required to register a property pursuant to this ordinance shall be:

- A. \$500 per property annually for any property that is required to be registered because a summons and complaint in an action to foreclose was filed by the creditor; and
- B. an additional \$2,000 per property annually if the property is vacant or abandoned pursuant to the definition in the ordinance when the summons and complaint in an action to foreclose is filed or becomes vacant and abandoned at any time thereafter while the property is in foreclosure.

§ 181-4. Creditor Responsibility for Vacant and Abandoned Properties.

- A. A Creditor filing a summons and complaint in an action to foreclose on a residential property within the Borough shall be immediately responsible for the care, maintenance, security and upkeep of the exterior of the property, after the property becomes Vacant and Abandoned as defined in this Section.
- B. Where a Creditor is located out-of-state, the Creditor shall be responsible for appointing an in-State representative or agent to act on the Creditor's behalf for the purpose of satisfying the requirements of this Section. Notice of said representative or agent shall be provided to the municipal clerk.

§ 181-5. Notice.

- A. Enforcement officers as designated by the Borough Administrator shall be authorized to issue a notice to a Creditor that has filed a summons and complaint in an action to foreclose on a residential property within the Borough, if the enforcement officer determines that the Creditor has violated this Section by failing to provide for the care, maintenance, security, and upkeep of the exterior of a Vacant and Abandoned property.

Where a Credit is an out-of-State Creditor, the notice shall be issued to the representative or agent that has been identified by the Creditor pursuant to Section 181-4.

- B. The notice shall require the Creditor to correct the violation(s) within thirty (30) days of receipt of the notice, or within ten (10) days of receipt of the notice if the violation presents an imminent threat to public health and safety.
- C. The issuance of a notice pursuant to this Section shall constitute proof that a residential property is Vacant and Abandoned for the purposes of this Section.

§ 181-6. Violations and Penalties.

- A. A Creditor subject to this Chapter that is found by the municipal court of the Borough, or by any other court of competent jurisdiction, to be in violation of the requirement to correct a care, maintenance, security, or upkeep violation cited in a notice issued pursuant to this Section shall be subject to a fine of one thousand five hundred (\$1,500.00) dollars for each day of the violation. Any files imposed pursuant to this paragraph shall commence thirty-one (31) days following the receipt of the notice, except if the violation presents an imminent risk to public health and safety, in which case any fines shall commence eleven (11) days following receipt of the notice.
- B. An out-of-state Creditor subject to this Section that is found by the municipal court of the Borough, or by any other court of competent jurisdiction, to be in violation of the requirement to appoint an in-State representative or agent pursuant to this Section shall be subject to a fine of two thousand five hundred (\$2,500.00) for each day of the violation. Any fines imposed on a Creditor for the failure to appoint an in-State representative or agent shall commence on the day after the ten (10) days period set forth in paragraph (1) of subsection a. of section 17 of P.L.2008, c. 127 (C.46:10B-51) for providing notice to the municipal clerk that a summons and complaint in an action to foreclose on a mortgage has been served.
- C. A Creditor subject to this Section that is found by the municipal court of the Borough, or by any other court of competent jurisdiction, to be in violation of the requirement to register a vacant and Abandoned property pursuant to this chapter shall be subject to a fine not exceed two thousand (\$2,000.00) dollars. Any fines imposed on a Creditor under this paragraph shall commence eleven (11) days following receipt of notice from the Borough.
- D. No less than twenty (20%) percent of any money collected to the Borough pursuant to this Section shall be utilized by the Borough for municipal code enforcement purposes.

Chapter 182

RENTAL OR LEASE OF RESIDENTIAL PROPERTY

§ 182-1. Permit required for rental or lease of property.

§ 182-2. Form of registration and application.

§ 182-3. Application requirements.

§ 182-4. Inspection.

§ 182-5. Duration of permit.

§ 182-6. Responsibility of owner or agent.

§ 182-7. Fees.

§ 182-8. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 4-18-2006 by Ord. No. 2006-6; Amendments noted where applicable.]

§ 182-1. Permit required for rental or lease of property.

It shall be unlawful for any owner or persons having possession and control of premises, or their agents, to use, establish, maintain, operate or let any premises subject to the provisions of this chapter or Chapter 136, Housing Standards, entirely or partially for residence occupancy, where any rent is paid or charge is made for such use and occupancy, without first having registered the premises with the Zoning Officer and obtaining a permit therefor. Failure or refusal to register the premises or to procure a permit hereunder shall be deemed a violation of this chapter.

§ 182-2. Form of registration and application.

Registration and application for such permit shall be made in writing to the Zoning Officer on forms provided therefor and shall contain the name of the applicant, owner, the location of the premises and the number of dwelling units and persons to be accommodated.

§ 182-3. Application requirements

Each application shall be accompanied by a plot plan or sketch showing the size and location of the premises, all buildings and structures and showing the floor plan to scale of each dwelling unit and accommodation. Each application shall be executed and sworn to by the owner of the premises or such other person authorized by him to operate the premises. The submission of an application, or a renewal thereof, for a rental permit is an authorization to the Borough of Butler, its agents or employees, to inspect the subject premises for the health and safety of the unit and its occupants.

§ 182-4. Inspection.

Before any permit is issued, the Zoning Officer or any other person authorized pursuant to this Chapter shall have an opportunity to inspect the premises and shall determine that the

same comply with the provisions of this chapter and Chapter 136, Housing Standards, and Chapter 180, Property Maintenance.

§ 182-5. Duration of permit.

The permit shall be issued for a calendar year with all permits expiring on December 31. The owner shall have until January 31 of each year to obtain a permit.

§ 182-6. Responsibility of owner or agent.

Every owner or person or their agents, having possession or control of any premises subject to this chapter for which rent is paid or a charge is made for such use and occupancy at the effective date of this chapter, shall register the premises and apply for a permit, which the Zoning Officer may issue as provided in this chapter.

§ 182-7. Fees.

Each registration and application for permit shall be accompanied by a fee in the amount of \$50 if there are one or two units on the property; \$100 if there are three to six units on the property, or \$200 if there are more than six units on the property.

§ 182-8. Violations and penalties.

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 184

SALES, SPECIAL

ARTICLE I

Going-Out-of-Business Sales

- § 184-1. **Definitions.**
- § 184-2. **License required; fee; time limitations.**
- § 184-3. **Filing of merchandise list; prohibitions.**
- § 184-4. **Verification of information.**
- § 184-5. **Exceptions.**
- § 184-6. **Display of license.**
- § 184-7. **Violations and penalties.**

ARTICLE II

Garage Sales

- § 184-8. **Definitions.**
- § 184-9. **License required; fee; display.**
- § 184-10. **Filing of information.**
- § 184-11. **Hours.**
- § 184-12. **Exceptions.**
- § 184-13. **Enforcement.**
- § 184-14. **Violations and penalties.**

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

[Licensing generally — See Ch. 150.](#)

ARTICLE I

Going-Out-of-Business Sales

[Adopted as Section 4-5 of the Revised General Ordinances of 1976]

§ 184-1. Definitions.

For the purpose of this article, the following terms shall have the meanings indicated:

CLOSING-OUT SALE — Shall include all sales advertised, represented or held forth under the designation of "going out of business," "discontinuance of business," "selling out," "liquidation," "lost our lease," "must vacate," "forced out," "removal," "fire sale," "damaged stock" or any other designation of like meaning indicating the forced sale of merchandise.

§ 184-2. License required; fee; time limitations.

No person shall conduct a closing-out sale in the Borough without first filing with the Borough Clerk the information hereinafter specified and obtaining from such Clerk a license so to do, to be known as a "closing-out sale license." The fee for such license shall be fixed as follows: for a period not exceeding 10 consecutive calendar days, \$25; for a period not exceeding 20 consecutive calendar days, \$35; for a period not exceeding 30 consecutive calendar days, \$50, provided that only one such license shall be issued to any one person

within a thirty-six-month period, and no such license shall be issued for more than 30 consecutive calendar days. The preceding thirty-six-month limitation shall apply to any person who is conducting a closing-out sale as of March 3, 1975, or to a corporation owned or controlled by any such person, or to a corporation owned or controlled by a person to whom a license under the provisions of this Article has been previously issued.

§ 184-3. Filing of merchandise list; prohibitions.

- A. The information to be filed with the Borough Clerk, pursuant to § 184-2, shall be a complete and accurate list or a written statement of the current retail value of the stock of goods, wares and merchandise to be sold at any sale for which a license is hereby required and shall be signed by the person seeking the license, or by a resident agent thereunder authorized, and, by affidavit, at the foot thereof, the person so signing shall swear or affirm that the information therein given is full and true and known by him to be so.
- B. No person shall sell, offer or expose for sale at any such sale, or list on such inventory or on the statement of the current retail value, any goods, wares or merchandise which are not the regular stock of the store or other place, the business of which is to be closed out by such sale, or make any replenishments or additions to such stock for the purposes of such sale, or during the time thereof, or fail, neglect or refuse to keep accurate records of the articles or things sold, or of the cash receipts therefor, from which records the Borough Clerk may ascertain the kind and quantity or number sold.

§ 184-4. Verification of information.

The Borough Clerk may, at his discretion, either himself or by such person as he may designate, verify the details of the information filed for the purpose of obtaining a closing-out sale license, and he may make a check and verify the items of merchandise sold during the sale. No person to whom a closing-out sale license has been issued shall fail or refuse to give the Borough Clerk or any person designated by him for that purpose all the facts connected with the stock on hand or the proper information of goods sold or any other information that he may require in order to make a thorough investigation of all phases of the sale.

§ 184-5. Exceptions.

The provisions of §§ 184-1 through 184-4 shall not be applicable to trustees in bankruptcy, executors, administrators, receivers or public officers under judicial process.

§ 184-6. Display of license.

Each license issued under the provisions of this chapter must be prominently displayed in the establishment for the purpose of advising the public that such sale has been licensed, and the license number shall be prominently shown on the show window or front of the establishment throughout the entire period of the licensed sale.

§ 184-7. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this article shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

**ARTICLE II
Garage Sales**

[Adopted as Section 4-7 of the Revised General Ordinances of 1976; amended in its entirety 4-12-1994 by Ord. No. 1994-3]

§ 184-8. Definitions.

For the purposes of this article, the following terms shall have the meanings indicated:

GARAGE SALE — Shall include all sales entitled "garage sale," "lawn sale," "attic sale," "rummage sale," "yard sale," "craft sale" or "flea market sale" or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of such sale.

GOODS — Shall include any goods, warehouse merchandise or other property capable of being the object of a sale regulated hereunder.

§ 184-9. License required; fee; display.

- A. No person shall conduct a garage sale in the Borough without first filing with the Borough Clerk the information hereinafter specified and obtaining from the Clerk a license so to do, to be known as a "garage sales license." The fee for such license shall be and the same is hereby fixed at \$5, except that if it is a group sale consisting of more than five tables the fee shall be \$25.
- B. Only two such licenses shall be issued to any one household within a twelve-month period, and each license shall be effective for four calendar days within a one-month time.
- C. Each license issued under this Article must be prominently displayed on the premises upon which the garage sale is conducted throughout the entire period of the licensed sale.

§ 184-10. Filing of information.

The information to be filed with the Borough Clerk pursuant to the provisions of this Article shall be as follows:

- A. The name of the person, firm, group, corporation, association or organization conducting such sale.
- B. The name of the owner of the property on which such sale is to be conducted, and consent of owner if applicant is other than the owner.

- C. The location at which the sale is to be conducted.
- D. The dates of the sale.
- E. The date of any past sale.
- F. A sworn statement or affirmation by the person signing that the information therein given is full and true and known by him to be so.

§ 184-11. Hours.

All garage sales shall be conducted between the hours of 8:00 a.m. and 8:00 p.m. only.

§ 184-12. Exceptions.

The provisions of this Article shall not apply to or affect the following persons or sales:

- A. Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
- B. Persons acting in accordance with their powers and duties as public officials.
- C. Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number.
- D. Any publisher of a newspaper, magazine or other publication or other communication media who publishes or broadcasts in good faith without knowledge of its false, deceptive or misleading character or without knowledge that the provisions of this Article have not been complied with.
- E. Any sale regulated under any other provisions of this Code.
- F. Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business wherein such sale would be permitted by the zoning regulations of the Borough or under the protection of the nonconforming use section thereof any other sale conducted by a manufacturer, dealer or vendor and which sale would be conducted from properly zoned premises and not otherwise prohibited in this Code.
- G. Any bona fide charitable, eleemosynary, educational, cultural or governmental institution or organization, provided that the burden of establishing the exemption under this section shall be on the organization or institution claiming such exemption.

§ 184-13. Enforcement.

This Article shall be enforced by the Borough Clerk. It shall be the duty of the Borough Clerk to investigate any violations of this Article coming to her attention, whether by complaint or arising from her own personal knowledge, and, if a violation is found to exist, she shall prosecute a complaint before the local Municipal Court pursuant to the provisions of this Article. It shall be the duty of the Police Department of the Borough to bring to the attention

of the Borough Clerk for further investigation any violations of this Article of which the Police Department becomes aware during the course of its normal duties.

§ 184-14. Violations and penalties. [Amended 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this article shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 187

SCHOOL EXERCISES, DISTURBANCE OF

§ 187-1. Prohibition.

§ 187-2. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 3-11 of the Revised General Ordinances of 1976. Amendments noted where applicable.]

§ 187-1. Prohibition.

No person shall disturb the exercises of any school or molest or give annoyance to children attending such school or any teacher therein.

§ 187-2. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 191

SEWERS

ARTICLE I

General Provisions

- § 191-1. Purpose and policy.
- § 191-2. Word usage and definitions.

ARTICLE II

Sewers

- § 191-3. Certain wastes and discharges prohibited; connection required.
- § 191-4. Connections; standards.
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Waste and Wastewater

- § 191-7. Limitations on wastewater strength.
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ARTICLE IV

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- § 191-9. Metered water supply.
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ARTICLE V

Permits, Reports and Administration

- § 191-12. Sewer connection permits.
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- § 191-14. Wastewater discharge permits.
- § 191-15. Monitoring facilities.
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ARTICLE VI

Wastewater Charges and Fees

- § 191-20. Sewer rates.
- § 191-20.1. Security deposit for sewer service.
- § 191-20.2. Sewer line cleaning and inspection charges.
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ARTICLE VII**Enforcement**

- § 191-24. **Accidental discharges.**
- § 191-25. **Issuance of cease and desist orders.**
- § 191-26. **Submission of time schedule.**
- § 191-27. **Appeals.**

ARTICLE VIII**Abatement**

- § 191-28. **Public nuisance.**
- § 191-29. **Injunction.**
- § 191-30. **Damage to facilities.**
- § 191-31. **Correction of violations; collection of costs.**
- § 191-32. **Violations and penalties.**
- § 191-33. **Falsifying of information.**
- § 191-34. **Inspection and maintenance of facilities; termination of services.**

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 10-19-1976 by Ord. No. 76-17. Amendments noted where applicable.]

GENERAL REFERENCES

[Sewerage Authority — See Ch. 50.
260.](#)

[Individual sewage disposal systems — See Ch.](#)

ARTICLE I
General Provisions**§ 191-1. Purpose and policy.**

- A. An attempt has been made throughout this chapter to employ standard or common definitions and terms which are in common usage among dischargers or regulatory agencies. Whenever possible, wording used in the 1972 Amendments to the Federal Water Pollution Control Act (PL 92-500) have been used. In addition, extensive wording relating to pretreatment standards and effluent limitations has been extracted from the Federal Guidelines, Pretreatment of Pollutants Introduced Into Publicly Owned Treatment Works, published by the Environmental Protection Agency in October 1973.
- B. This Wastewater Discharge Ordinance sets uniform requirements for discharges into the wastewater collection and treatment system and enables the Borough to comply with applicable effluent limitations, national standards of performance and other criteria which are required or authorized by state or federal law, and to derive the maximum public benefit by regulating the quality and quantity of wastewater discharged into the sewer system. This chapter provides a means for determining wastewater volumes, constituents and characteristics, the setting of charges and fees and the issuance of permits to certain users. Revenues derived from the application of this chapter shall be used to defray the cost of operating and maintaining adequate wastewater collection and treatment systems and to provide sufficient funds for capital outlay, bond service costs, capital improvements and depreciation. Charges and fees, as hereinafter referred to, have been established pursuant to Borough ordinances.

§ 191-2. Word usage and definitions.

- A. Unless otherwise defined herein, terms shall be as adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation. Waste constituents and characteristics shall be measured by Standard Methods unless expressly stated, or as established by federal or state regulatory agencies.
- B. As used in this chapter, the following terms shall have the meanings indicated:

BENEFICIAL USES — Uses of the waters of the state that may be protected against quality degradation, including domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation and the preservation and enhancement of fish, wildlife and other uses, both tangible or intangible as specified by federal or state law.

BOROUGH — The Borough of Butler, Morris County, New Jersey.

BOROUGH SEWER — A sewer owned and operated by the Borough tributary to a treatment facility operated by the Borough or an authority incorporating the Borough.

BUILDING CONNECTION — A sewer conveying wastewater from the premises of a user to the Borough sewer.

BUILDING PLUMBING SYSTEM — All the plumbing work within the building and to a point five feet outside of the building which conveys sewage from within the building to the sewer connection outside of the building.

COMBINED SEWER — A sewer receiving both surface runoff and wastewater.

COMPATIBLE POLLUTANT — Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the Borough's National Pollutant Discharge Elimination System (NPDES) permit if the treatment works were designed to treat such pollutants, and in fact do remove such pollutants to a substantial degree.

CONTAMINATION — An impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease. "Contamination" shall include any equivalent effect resulting from the disposal of wastewater, whether or not waters of the state are affected.

FEDERAL ACT — The Federal Water Pollution Control Act, PL 92-500, and any amendments thereto; as well as any guidelines, limitations and standards promulgated by the Environmental Agency pursuant to the Act.

GARBAGE — Solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

HOLDING TANK WASTE — Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum pump tank trucks.

INCOMPATIBLE POLLUTANT — Any pollutant which is not a "compatible pollutant," as defined in this section.

INDUSTRIAL WASTES — The wastes from industrial processes as distinct from domestic waste.

MAIN SEWER — The sewers laid longitudinally along the center line or other part of the streets or other rights-of-way and to which all owners of abutting properties have equal rights and which is controlled by public authority.

MAJOR CONTRIBUTING INDUSTRY — Any wastewater contributor identified in the Standard Industrial Classification (SIC) Manual in any of Divisions A, B, C, E and I that:

- (1) Has a discharge flow of 50,000 gallons or more per average work day (If seasonal, the average shall be computed on the period of use.);
- (2) Has a flow or pollutant loading greater than 2% of the design capacity of the treatment works;
- (3) Has in its wastes toxic pollutants in toxic amounts as defined in the standards issued under Section 307(a) of the Federal Water Pollution Control Act Amendments of 1972; or
- (4) Is found by the Borough's authorized representative to have significant impact, either singly or in combination with other contributing industries, on the treatment works or upon the quality of effluent from the treatment works.

MANAGER — The designated Borough representative, e.g., the Superintendent of Sewers for the Borough of Butler.

MASS EMISSION RATE — The weight of material discharge to the Borough sewer system during a given time interval. Unless otherwise specified, the "mass emission rate" shall mean pounds per day of a particular constituent or combination of constituents.

PERSON — Any individual, firm, company, partnership, association, and private, public and municipal corporations responsible corporate officer, the United States of America, the State of New Jersey, districts and all political subdivisions, governmental agencies and mandatories thereof.

POLLUTION — An alteration of the quality of the waters of the state by waste to a degree which unreasonably affects such waters for beneficial use or affects the facilities which serve such beneficial uses. "Pollution" may include contamination.

PREMISES — A parcel of real estate or portion thereof, including any improvements thereon which is determined by the Borough to be a single user for purposes of receiving, using and paying for service.

RECLAIMED WATER — Water which, as a result of treatment of waste, is suitable for direct beneficial use or a controlled use that would not otherwise occur.

SANITARY SEWER — A sewer which carries wastewater and to which storm-, surface and ground waters are not intentionally admitted.

SEWER EXTENSION — That part of the sewer system that runs from the main sewer to the curblineline, and includes all necessary fittings.

STORM SEWER OR STORM DRAIN — A sewer which carries storm- and surface waters and drainage, but excludes wastewater and polluted wastes.

TREATMENT WORKS — Any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature or necessary to recycle or reuse water at the most economical cost over the useful life of the works, including interceptor sewers, outfall sewers, sewage collection systems, pumping, power and other equipment and appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment; or any other method or system for preventing, abating, reducing, storing, treatment, separating or disposing of municipal waste, including stormwater runoff, or industrial waste, including waste in combined stormwater and sanitary sewer systems.

UNPOLLUTED WATER — Water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the agency having jurisdiction thereof for disposal to storm or natural drainages or directly to surface waters.

USER — Any person that discharges, causes or permits the discharge of wastewater into a community sewer.

USER CLASSIFICATION — A classification of user based on the 1972 Edition of the Standard Industrial Classification (SIC) Manual prepared by the Executive Office of Management and Budget.

WASTE — Includes sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human or animal origin, or from any producing, manufacturing or processing operation of whatever nature, including such waste placed within containers or whatever nature prior to, and for purposes of, disposal.

WASTEWATER — Waste and water, whether treated or untreated, discharged into or permitted to enter a community sewer.

WASTEWATER CONSTITUENTS AND CHARACTERISTICS — The individual chemical, physical, bacteriological and radiological parameters, including volume and flow-rate and such other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

WATERS OF THE STATE — Any water, surface or underground, including saline waters within the boundaries of the state.

ARTICLE II
Sewers

§ 191-3. Certain wastes and discharges prohibited; connection required.

- A. It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the Borough of Butler or in any area under the jurisdiction of said Borough any human or animal excrement, garbage or other objectionable waste.
- B. It shall be unlawful to discharge to any waters of the state or in any area under the jurisdiction of the Borough any wastewater, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.
- C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
- D. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose, situated within the Borough and abutting on any street, alley or right-of-way in which there is now located or may, in the future be located a public sanitary sewer of the Borough, is hereby required at his expense to install suitable toilet facilities directly with the proper public sewer, in accordance with the provisions of this chapter, within 90 days after date of official notice to do so, provided that said public sewer is within 100 feet of the property line.

§ 191-4. Connections; standards.

- A. All costs and expenses incident to the installation and connection to a public sewer shall be borne by the owner. The owner shall indemnify the Borough from any loss or damage that may, directly or indirectly, be occasioned by the installation of a building connection.
- B. A separate and independent building connection shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, in which case the building connection from the front building may be extended to the rear building and the whole considered as one building connection.
- C. A portion of the existing outside piping of the building plumbing system may be used in connection with the building connection only when it is found, upon examination and test by the Manager, to meet all requirements of this chapter.
- D. The building connection pipe shall be made of extra heavy cast-iron pipe or asbestos-cement rubber-ring pipe properly jointed. Cast-iron pipe shall be jointed with lead, sulphur or equal jointing compounds, except that lead joints shall be used exclusively where the pipe is located within 10 feet of a water-service pipe or where it is exposed to damage by tree roots. Only cast-iron pipe shall be used where the pipe passes under a driveway or other areas where, in the opinion of the Manager, its preference over asbestos-cement pipe is warranted.

- E. The diameter of the building connection pipe shall be not less than four inches and not greater than six inches, unless otherwise approved by the Manager. The building connection shall be laid on a uniform grade, wherever practicable, at a straight grade of at least 1/4 inch per foot. Where, in special cases, a minimum grade on 1/4 inch per foot cannot be maintained, a grade of 1/8 inch per foot will be permitted, but only after the Manager is amply notified and gives his approval.
- F. Wherever possible, the building connection shall be brought to the building at an elevation below the basement floor. No building connection shall be laid parallel to or within three feet of any bearing wall which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building connection shall be laid at uniform grade in the direction of the main sewer to the building and in straight alignment insofar as possible. Change in direction shall be made only with properly curved pipe and fittings.
- G. In all structures in which the building plumbing is too low to permit gravity flow to the Borough sewer, wastewater carried by such drain shall be lifted by approved artificial means and discharged to the building connection.
- H. When installing the building connection, the trenches shall be dug in a careful manner and properly sheathed where required. The road materials shall be placed in a separate pile and not mixed with the rest of the excavated materials which must be piled in a compact heap, so placed as to cause the least possible inconvenience to the public. Proper barricades and lights must be maintained around the trench to guard against accidents.
- (1) In backfilling, the material for the two feet immediately over the pipe shall be selected so that it contains no stones. This must be carefully tamped, the balance of the trench to be backfilled in a workmanlike manner, tamping and filling in eight-inch layers so as to avoid any settlement. When the trench has been filled to the proper height, the road material is to be replaced and heavily tamped or rolled.
 - (2) Where the trench is excavated in rock, the rock must be carefully excavated to a depth of six inches below the grade line of the sewer and the trench brought to the proper elevation with gravel or other material satisfactory to the Manager. The remainder of the trench must be backfilled with suitable material.
 - (3) Nothing in this section shall be construed as abrogating any of the existing requirements of the Borough relating to the excavation and backfilling of trenches, but the requirements herein contained shall be in addition thereto.
 - (4) Where subsoil conditions are bad, such special precaution must be taken to secure a watertight job as may be directed by the Manager. In quicksand, all pipes must be laid out on planking, two inches thick by at least 12 inches wide.
- I. All joints and connections shall be made gastight and watertight.
- (1) Cast-iron pipe joints shall be firmly packed with jute, hemp or equal yarning material and hot-poured with a melted lead or sulfur compound to a depth of not less than one inch. The jointing compound shall be run in one pouring and caulked tight. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved by the Manager. Material for hot-poured joints shall not soften sufficiently to destroy the effectiveness of the joint when subjected to a temperature of 160° F., nor be soluble in any of the wastes carried by the drainage system.

- (2) Joints for asbestos-cement pipe shall be the standard rubber-ring coupling type and installed in accordance with the manufacturer's instructions.
 - (3) Other jointing materials and methods may be used only upon approval by the Manager.
- J. Connection to sewer extension or main sewer.
- (1) The connection of the building connection to the main sewer shall be made at the sewer extension at the curblin or, if no sewer extension exists, connection shall be made at the nearest available Y-connection on the main sewer. The Manager will designate the position of the end of the sewer extension at the curblin or the Y-connection on the main sewer, whichever is appropriate. If it becomes necessary to cut into the main sewer, since no other source of connection is available, then such connection shall be made as directed by and under the supervision of the Manager. The dead ends of all pipes not immediately connected with the house plumbing system must be securely closed by a watertight cover of imperishable material. No building connection shall be made to a manhole of the sewer system.
 - (2) Prior to any connection to the sewer extension or to the main sewer, the Manager must be given ample notice in order that he may supervise such work. If the Manager has not been given ample notice, he may require the completed work to be uncovered for examination, at the owner's own expense.
- K. The use of cleanouts on the building connection shall be made by installing a Y- and one-eighth bend. The cleanouts shall ordinarily be installed at the point of construction between the building connection and outside part of the building plumbing system, at all curves on the building connection and on the straight part of the building sewer. The cleanout shall be brought up from the building connection to eight inches below ground level and be properly capped. Where the distance from the building to a point connection at the main sewer is less than 50 feet, and there are no curves in this distance, the cleanout in the building will be sufficient if it is at least six inches above the basement floor. Where the distance exceeds 50 feet, at least one cleanout 20 feet from the building shall be provided.
- L. Where a connection is made between the portion of the building plumbing system outside of the structure and the building connection, a long-radius bend shall appropriately be installed at this connection, along with a cleanout as described above. This connection shall be subject to the approval of the Manager, who shall be given ample notice prior to such work.
- M. Before any portion of the existing plumbing system outside of the building is connected to the building connection, the owner shall prove, to the satisfaction of the Manager, that it is clean and conforms in every respect to these rules and regulations.
- N. Where extra-heavy cast-iron pipe is installed for house connections, such work shall be performed by a plumber licensed and approved by the Borough.

- O. The Manager may apply any appropriate test to the pipes, and the plumber and contractor, at his own expense, shall furnish all necessary tools, labor, materials and assistants for such tests and shall remove any defective materials when so ordered by the Manager.
- P. Each contractor or other person performing work on Borough public property for the purpose of installing building connections shall post a bond acceptable to the Borough. All work shall be adequately guarded with barricades, lights and other measures for protection to the public from hazard. Streets, sidewalks, curbs and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Borough.
- Q. The owner of any house, building or property who hooks into the sanitary sewer where there is an existing septic system must fill in the existing septic system within 30 days of making connection to the sanitary sewer.
- R. If a building is served by an individual sewage disposal system, which ceases to function properly, and if any replacement or addition of septic tanks, seepage pits or leaching fields and trenches are necessary, in the opinion of the Borough Sanitarian, to cause the system to function properly or it is not in the public interest to permit a minor repair to said system, the owner of the building and property must connect to the sanitary sewer system of the Borough, if said sewer system is located within 100 feet of the property. **[Added 5-8-1990 by Ord. No. 1990-10¹]**

§ 191-5. Use.

- A. Prohibitions of discharges. No person shall discharge wastes to a Borough sewer which cause, threaten to cause, or are capable of causing, either alone or by interaction with other substances, the following:
- (1) A fire or explosion.
 - (2) Obstruction of flow or injury to the treatment works.
 - (3) Danger to life or safety of personnel.
 - (4) A strong offensive odor or prevention of the effective maintenance or operation of the treatment works.
 - (5) Air pollution by the release of toxic or malodorous gases or malodorous gas-producing substances.
 - (6) Interference with the wastewater treatment process.
 - (7) The effluent or any other product of the treatment process, residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.

1. Editor's Note: This ordinance also repealed former § 191-4R dealing with the same subject matter.

- (8) A detrimental environmental impact or a nuisance in the waters of the state or a condition unacceptable to any public agency having regulatory jurisdiction over the Borough.
 - (9) Discoloration or any other condition in the quality of the treatment works effluent, such that receiving water quality requirements established by law cannot be met.
 - (10) Conditions at or near the treatment works which violate any statute or any rule, regulation or ordinance of any public agency or state or federal regulatory body.
 - (11) The treatment works to be overloaded or cause excessive Borough collection or treatment costs, or may use a disproportionate share of the Borough facilities.
 - (12) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the treatment works.
- B. Prohibitions on storm drainage and groundwater.
- (1) Stormwater, groundwater, rain water, street drainage, subsurface drainage or yard drainage shall not be discharged through direct or indirect connections to a Borough sewer unless a permit is issued. The Borough may approve the discharge of such water only when no reasonable alternative method of disposal is available.
 - (2) If a permit is granted for the discharge of such water into a Borough sewer, the user shall pay the applicable charges and fees and meet such other conditions as required by the Borough.
- C. Prohibition on unpolluted water.
- (1) Unpolluted water, including but not limited to cooling water, process water or blow-down from cooling towers or evaporative coolers, shall not be discharged through direct or indirect connection to a Borough sewer unless a permit is issued. The Borough may approve the discharge of such water only when no reasonable alternative method of disposal is available.
 - (2) If a permit is granted for the discharge of such water into a Borough sewer, the user shall pay the applicable charges and fees and shall meet such other conditions as required by the Borough.
- D. Limitations on radioactive wastes. No person shall discharge or cause to be discharged any radioactive waste into a Borough sewer except when:
- (1) The person is authorized to use radioactive materials by the State Department of Health or other governmental agency empowered to regulate the use of radioactive material;
 - (2) The waste is discharged in strict conformity with current New Jersey regulations and the United States Nuclear Regulatory Commission regulations and recommendations for safe disposal; and

- (3) The person is in compliance with all rules and regulations of all other applicable regulatory agencies.
- E. Limitations on the use of garbage grinders.
- (1) Waste from garbage grinders shall not be discharged into a Borough sewer except:
 - (a) Wastes generated in preparation of food normally consumed on the premises;
or
 - (b) Where the user has obtained a permit for that specific use from the Borough and agrees to undertake whatever self-monitoring is required to enable the Borough to equitably determine the charges and fees based on the waste constituents and characteristics.
 - (2) Such permitted grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the Borough sewer with no particle greater than 1/2 inch in any dimension.
- F. Holding tank waste. No person shall discharge any holding tank waste into a Borough sewer unless he has been issued a permit. Unless otherwise allowed by the Borough under the terms and conditions of the permit, a separate permit must be secured for each separate discharge. This permit will state the specific location of discharge, the time of day the discharge is to occur, the volume of the discharge and the wastewater constituents and characteristics. If a permit is granted for discharge of such waste into a Borough sewer, the user shall pay the applicable charges and fees and shall meet such other conditions as required. An exception to the above is that no permit will be required for discharge of domestic wastes from mobile home holding tanks, provided that such discharges are made into a Borough-approved facility designed to receive such wastes.
- G. Grease, oil and sand interceptors.
- (1) Grease, oil and sand interceptors shall be provided and maintained at the owner's expense when, in the opinion of the Manager, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Manager and shall be located as to be readily and easily accessible for cleaning and inspection.
 - (2) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

§ 191-6. Protection from damage.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the treatment works.

ARTICLE III
Waste and Wastewater

§ 191-7. Limitations on wastewater strength.

- A. No person shall discharge wastewater containing in excess of:
- (1) One-tenth milligram per liter of arsenic.
 - (2) Two-tenths milligram per liter of cadmium.
 - (3) Two and zero-tenths milligrams per liter of copper.
 - (4) One and zero-tenths milligram per liter of cyanide.
 - (5) One and zero-tenths milligram per liter of lead.
 - (6) One-hundredth milligram per liter of mercury.
 - (7) One and zero-tenths milligram per liter of nickel.
 - (8) Two-tenths milligram per liter of silver.
 - (9) Five-tenths milligram per liter of total chromium.
 - (10) Three and zero-tenths milligrams per liter of zinc.
 - (11) Three hundred milligrams per liter of biochemical oxygen demand.
 - (12) Three hundred fifty milligrams per liter of suspended solids.
- B. No person shall discharge any wastewater:
- (1) Having a temperature higher than 150° F. [65.5° C.].
 - (2) Containing more than 100 milligrams per liter of oil or grease of animal or vegetable origin.
 - (3) Containing more than 100 milligrams per liter of oil or grease of mineral or petroleum origin.
 - (4) Having a pH lower than 6.0 or higher than 9.0.
 - (5) Containing in excess of 0.02 milligram per liter of total identifiable chlorinated hydrocarbons which cannot be removed by the wastewater treatment process.
 - (6) Containing in excess of 1.0 milligram per liter of phenolic compounds which cannot be removed by the wastewater treatment process.
- C. Effluent limitations promulgated by the Federal Act shall apply in any instance where they are more stringent than those in this chapter. Under Section 3-7(b) of the Act, federal pretreatment standards are designed to achieve two purposes: to protect the operation of publicly owned treatment works and to prevent the discharge of pollutants which pass through such works inadequately treated. Users in industrial categories

subject to effluent guidelines issued under Section 304(b) of the Act which are discharging incompatible pollutants to publicly owned treatment works are required to adopt best practicable control technology currently available, as defined by the Administrator pursuant to Section 304(b) of the Act. Where the treatment works was designed to and does achieve substantial removal of pollutants other than the four pollutants listed in the definition for compatible pollutants in § 191-2 (BOD, suspended solids, pH and fecal coliform bacteria), the Borough may, at its discretion, not require the user to achieve the best practicable control technology currently available, since this would lead to an uneconomical duplication of treatment facilities. While the term "substantial removal" is not subject to precise definition, it generally contemplates removals in the order of 80% or greater. Minor incidental removals in the order of 10% to 30% are not considered "substantial." For some industrial categories, it may be necessary to define pretreatment guidelines for problems that may arise as a result of the discharge into the Borough treatment works. However, any adjustments required for particular industrial categories should be considered in connection with the Borough requirements rather than in the national pretreatment standard. Limitations on wastewater strength in § 191-7A and B of this chapter may be supplemented with more stringent limitations pursuant to § 191-14D:

- (1) If the Borough determines that the limitations in § 191-7A and B may not be sufficient to protect the operation of the treatment works; or
- (2) If the Borough determines that the limitations in § 191-7A and B may not be sufficient to enable the treatment works to comply with water quality standards of effluent limitations specified in the National Pollutant Discharge Elimination System (NPDES) permit issued for the wastewater treatment facility.

§ 191-8. Disposal of unacceptable wastes.

Wastes not permitted to be discharged into the Borough sewer must be transmitted to a state approved disposal site. The required Waste Haulers Report must be completed and a copy furnished within 30 days to the Borough by the discharger.

ARTICLE IV Wastewater Volume

§ 191-9. Metered water supply.

When charges and fees are based upon the water usage, such charges and fees shall be applied against the total amount of water used from all courses unless, in the opinion of the Borough, significant portions of water received are not discharged to a Borough sewer. The total amount of water used from public and private sources will be determined by means of public meters or private meters, installed and maintained at the expense of the user and approved by the Borough.

§ 191-10. Metered wastewater volume and metered divisions.

When charges and fees are based upon water usage and where, in the opinion of the Borough, a significant portion of the water received from any metered source does not flow into the Borough sewer because of the principal activity of the user or removal by other means, the charges and fees will be applied against the volume of water discharged from such premises into the Borough sewer. Written notification and proof of the diversion of water must be provided by the user and approved by the Borough, if the user is to avoid the application of the charges and fees against the total amount of water used from all sources. The user may install a meter of a type and at a location approved by the Borough and at the user's expense. Such meters shall measure either the amount of sewage discharged or the amount of water delivered. Such meters shall be maintained at the expense of the user and be tested for accuracy at the expense of the user when deemed necessary by the Manager.

§ 191-11. Estimated wastewater volume.

- A. Users without source meters. For users where, in the opinion of the Borough, it is necessary or impractical to install meters, the charges and fees may be based upon an estimate of the volume to be discharged, prepared by the Borough. A rational method will be used to estimate the quantity of wastewater discharged and may consider such factors as the number of fixtures, seating capacity, population equivalent, annual production of goods and services or such other determinations of water use necessary to estimate the wastewater volume discharged.
- B. Users with source meters. For users who, in the opinion of the Borough, divert a significant portion of their flow away from the Borough sewer, charges and fees may be based upon an estimate of the flow and volume to be discharged, prepared by the user and approved by the Borough, provided that the user obtains a wastewater discharge permit and pays the applicable charges and fees. The estimate must include the method and calculations used to determine the wastewater volume and may consider such factors as the number of fixtures, seating capacity, population equivalents, annual production of goods and services, or such other determinations of water use necessary to estimate the wastewater volume discharged.

ARTICLE V

Permits, Reports and Administration**§ 191-12. Sewer connection permits. [Amended 12-15-1987 by Ord. No. 17-87; 9-20-1988 by Ord. No. 25-88; 2-13-1990 by Ord. No. 1990-4; 2-9-1993 by Ord. No. 1992-28]**

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any Borough sewer or appurtenance thereof without first obtaining a written permit from the Construction Official.
- B. There shall be two classes of public sewer connection permits, for residential and commercial services and for service to establishments producing industrial wastes. In either case, the owner or his or her agent shall make application on a special form

provided by the Borough. The permit applications shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Borough Engineer.

- C. The current permit and inspection fee for a residential, a commercial or an industrial public sewer connection, as well as the sewer connection charge, shall be paid to the Construction Official at the time the application is filed.

§ 191-13. Discharge reports.

The Borough may require that any person discharging or proposing to discharge wastewater into a Borough sewer file a periodic discharge report. The discharge report may include, but not be limited to, nature of process, volume, rates of flow, mass emission rate, production quantities, hours of operation, number and classification of employees, or other information which relates to the generation of waste, including wastewater discharge. Such reports may also include the chemical constituents and quantity of liquid or gaseous materials stored on site even though they are not normally discharged. In addition to discharge reports, the Borough may require information in the form of wastewater discharge permit applications and self-monitoring reports.

§ 191-14. Wastewater discharge permits.

- A. Mandatory permits. Each "major contributing industry" as defined in § 191-2, or other users with a discharge equivalent to that of a major contributing industry, if not connected to a Borough sewer, must obtain a wastewater discharge permit before connecting to or discharging into a Borough sewer. Each currently connected "major contributing industry" or equivalent user must obtain a wastewater discharge permit within 90 days after the effective date of this chapter.
- B. Optional permits. The Manager may issue a wastewater discharge permit to any user, upon application, in accordance with the terms of this section in the following categories:
 - (1) A user who requests charges and fees to be based on an estimate of wastewater flow; or
 - (2) Any user whose wastewater strength is less than the normal range for the user classification to which he is assigned because of pretreatment, process changes or other reasons.
- C. Permit application.
 - (1) Users seeking a wastewater, discharge permit shall complete and file with the Manager an application in the form prescribed by the Manager and accompanied by the applicable fees. The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:
 - (a) Name, address and Standard Industrial Classification (SIC) number of applicant.

- (b) Volume of wastewater to be discharged.
 - (c) Wastewater constituents and characteristics, including but not limited to those mentioned in § 191-7 as determined by a laboratory approved by the Borough.
 - (d) Time and duration of discharge.
 - (e) Average and thirty-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any.
 - (f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation.
 - (g) Description of activities, facilities and plant process on the premises, including all materials, processes and types of materials which are or could be discharged.
 - (h) Each product produced by type, amount and rate of production.
 - (i) Number and type of employees, and hours of work.
 - (j) Any other information as may be deemed by the Manager to be necessary to evaluate the permit application.
- (2) The Manager will evaluate the data furnished by the user and may require additional information. After evaluation and approval of all the data required, the Manager may issue a wastewater discharge permit subject to terms and conditions provided herein.
- D. Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other ordinances, regulations, charges and fees established by the Borough. The conditions of wastewater discharge permits shall be uniformly enforced by the Manager in accordance with this chapter, and applicable state and federal regulations. Permits may contain the following:
- (1) The unit charge or schedule of charges and fees for the wastewater to be discharged to a Borough sewer.
 - (2) The average and maximum wastewater constituents and characteristics.
 - (3) Limits on rate and time of discharge or requirements for flow regulations and equalization.
 - (4) Requirements for installation of inspection and sampling facilities.
 - (5) Pretreatment requirements.
 - (6) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types, and standards for tests and reporting schedule.
 - (7) Requirements for submission of technical reports or discharge reports.

- (8) Requirements for maintaining plant records relating to wastewater discharge as specified by the Borough, and affording Borough access thereto.
 - (9) Mean and maximum mass emission rates, or other appropriate limits when incompatible pollutants (as defined by § 191-2) are proposed or present in the user's wastewater discharge.
 - (10) Other conditions as deemed appropriate by the Borough to ensure compliance with this chapter.
- E. Duration of permits. Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. If the user is not notified by the Borough 30 days prior to the expiration of the permit, the permit shall be extended one additional year. The terms and conditions of the permit may be subject to modification and change by the Borough during the life of the permit as limitations or requirements as identified in § 191-7 are modified and changed. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- F. Transfer of a permit. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation.
- G. Revocation of permit. Any user who violates the conditions of the wastewater drainage permit, any provisions of this chapter, applicable state and federal regulations, or any of the following, is subject to having his permit revoked:
- (1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
 - (2) Failure of the user to report significant changes in operations or wastewater constituents and characteristics; or
 - (3) Refusal of reasonable access to user's premises for the purpose of inspection or monitoring.

§ 191-15. Monitoring facilities.

- A. Users who propose to discharge or who, in the judgment of the Borough, could discharge now or in the future wastewater with constituents and characteristics different from those produced by a domestic premises (see § 191-23) will be required to install a monitoring facility.
- B. When more than one user can discharge into a common building sewer, the Borough may require installation of a separate monitoring facility for each user. Also when, in the judgment of the Borough, there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the Borough may require that separate monitoring facilities be installed for each separate discharge.

- C. Monitoring facilities that are required to be installed shall be constructed, operated and maintained at the user's expense. The purpose of the facility is to enable inspection, sampling and flow measurement of wastewaters produced by a user. If sampling or metering equipment is also required by the Borough, it shall be provided, installed and separated at the user's expense. The monitoring facility will normally be required to be located on the user's premises, outside of the building. The Borough may, however, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area, with the approval of the Borough, and located so that it will not be obstructed by landscaping or parked vehicles.
- D. If the monitoring facility is inside the user's fence, there shall be accommodations to allow safe and immediate access for Borough personnel, such as a gate secured with a Borough lock. There shall be ample room in or near such facility to allow accurate sampling and compositing of samples for analysis. The entire facility and the sampling and measuring equipment shall be maintained at all times in a safe and proper condition by and at the expense of the user.
- E. Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the Borough requirements and all applicable local agency construction standards and specifications.
- F. When, in the judgment of the Borough, an existing user requires a monitoring facility, the user will be so notified in writing. Construction must be completed within 90 days following written notification unless a time extension is otherwise granted by the Borough.
- G. The Borough may inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Borough or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection or sampling or in the performance of any of their duties. The Borough shall have the right to set up on the user's property such devices as are necessary to conduct sampling or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that, upon presentation of suitable identification, personnel from the Borough will be permitted to enter without delay for the purpose of performing their specific responsibilities.

§ 191-16. Pretreatment.

Users shall cause wastewater to be acceptable under the limitations established herein before discharging into any Borough sewer. Any facilities required to pretreat wastewater to a level acceptable to the Borough shall be provided and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Borough for review and shall be approved by the Borough before construction of the facility. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent

complying with the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the Borough.

§ 191-17. Protection from accidental discharge.

- A. Each user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Borough for review and shall be approved by the Borough before construction of the facility.
- B. The review and approval of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to provide the protection to meet the requirements of this chapter.

§ 191-18. Confidential information.

- A. All information and data on a user obtained from reports, questionnaires, permits and monitoring programs and from inspections shall be available to the public or any other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Borough that the release of such information would divulge information, processes or methods which would be detrimental to the user's competitive position.
- B. When requested by the person furnishing a report, the portions of a report which might disclose secrets or secret processes shall not be made available for inspection by the public, but shall be made available to governmental agencies for use in making studies, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.
- C. Information accepted by the Borough as confidential shall not be transmitted to any governmental agency or to the general public by the Borough until and unless prior and adequate notification is given to the user.

§ 191-19. Special agreements.

Special agreements and arrangements between the Borough and any persons or agencies may be established when, in the opinion of the Borough, unusual or extraordinary circumstances compel special terms and conditions.

ARTICLE VI
Wastewater Charges and Fees

§ 191-20. Sewer rates. [Amended 1-17-1989 by Ord. No. 3-89; 6-13-1989 by Ord. No. 21-89; 6-18-2019 by Ord. No. 2019-11]

- A. There are hereby established rates or charges for the use of the sewer system of the Borough of Butler. For users within the Borough of Butler, such rate shall be based upon the amount of water supplied by the water system of the Borough as determined by meter readings of the fourth quarter of the previous year and the first quarter of the succeeding year, using these quarters as the basis for also billing the second and third quarters of each year.
- B. For users outside the Borough of Butler who have water supplied by a water system on a metered basis, such rate shall be a base rate plus a rate based upon the amount of the water supplied by the water system as determined by meter readings of the fourth quarter of the previous year and the first quarter of the succeeding year, using these quarters as the basis for also billing the second and third quarters of each year.
- C. For users within the Borough of Butler who are not supplied by a metered water system, there will be a flat annual sewer charge of Four Hundred Sixty Five Dollars (\$465.00) per year. **[Amended 9-23-1997 by Ord. No. 1997-22; 4-19-2005 by Ord. No. 2005-5; 12-20-2011 by Ord. No. 2011-20; 6-18-2019 by Ord. No. 2019-11]**
- D. For users outside the Borough of Butler who are not supplied by a metered water system, there will be a flat annual sewer charge of Nine Hundred Thirty Dollars and Zero Cents (\$930.00) per year. **[Amended 9-23-1997 by Ord. No. 1997-22; 4-19-2005 by Ord. No. 2005-5; 12-20-2011 by Ord. No. 2011-20; 6-18-2019 by Ord. No. 2019-11]**
- E. For all users of the sewer system outside the Borough of Butler who are serviced by a metered water supply system, the base rate shall be determined by the meter size of the water supply pipe as follows: **[Amended 9-23-1997 by Ord. No. 1997-22; 4-19-2005 by Ord. No. 2005-5; 12-20-2011 by Ord. No. 2011-20; 6-18-2019 by Ord. No. 2019-11]**

Size of Meter (inches)	Annual Base Rate
5/8	\$465.00
3/4	\$670.60
1	\$1028.00
1 1/2	\$2,503.00
2	\$4291.00
3	\$8,940.00
4	\$16,092.00
6	\$32,183.00

- F. The sewer rate based upon a metered water supply shall be Six Dollars and Fifty Five Cents (\$6.55) per one thousand (1,000) gallons of water supplied to the user as determined from the meter readings of the fourth quarter of the previous year and the first quarter of the succeeding year, using these quarters as the basis for also billing the second and third quarters of each year. **[Amended 9-23-1997 by Ord. No. 1997-22; 4-19-2005 by Ord. No. 2005-5; 12-20-2011 by Ord. No. 2011-20; 6-18-2019 by Ord. No. 2019-11]**
- G. The charges for sewer service shall be made in quarterly bills rendered in the month of January, April, July and October following each quarter for which sewer service has been supplied and shall be due and payable on the date the bill is rendered.. **[Amended ; 12-20-2011 by Ord. No. 2011-20]**
- H. If bills are not paid within 30 days of the date they are rendered, they shall be delinquent and shall bear interest on the delinquent amount at a rate as established by the Borough for delinquent real estate taxes.
- I. Amounts due on delinquent bills shall become a lien upon the real estate for which the sewer service has been supplied, as provided by law.

§ 191-20.1. Security deposit for sewer service. [Added 12-6-1988 by Ord. No. 30-88; Repealed 12-20-2011 by Ord. 2011-20]

RESERVED

§ 191-20.2

SEWERS

§ 191-20.3

§ 191-20.2. Sewer line cleaning and inspection charges. [Added 5-8-1990 by Ord. No. 1990-13; amended 12-20-2005 by Ord. No. 2005-27; 12-20-2011 by Ord. No. 2011-20]

A. There are hereby established charges for the cleaning and inspection of sanitary sewer lines outside the limits of the Borough of Butler.

- (1) Sewer jet vac truck: \$140 per hour.
- (2) Operation of jet vac: \$60 per hour.
- (3) Laborer: \$60 per hour.

B. The above charges are for an eight-hour work period. Time in addition to that period will be billed at a time-and-one-half rate. Saturdays, Sundays and holidays will also be billed at time and one-half. Outside normal business hours at time and one-half and holidays are billed at two times the specified hourly rates.

§ 191-20.3. Sewer connection fee. [Added 2-9-1993 by Ord. No. 1992-28; amended 9-23-1997 by Ord. No. 1997-22]

A connection fee shall be charged for each connection of any property with the sewer supply system. The connection fee shall be \$1,500.

§ 191-21. Classification of users.

All users are to be classified by the Borough either by assigning such one to a user classification category according to the principal activity conducted on the user's premises, by individual user analyzation, or by a combination thereof. The purpose of such collective and/or individual classification is to facilitate the regulation of wastewater discharges based on wastewater constituents and characteristics to provide an effective means of source control and to establish a system of charges and fees which will ensure an equitable recovery of the Borough cost.

§ 191-22. Types of charges and fees.

The charges and fees as established in the Borough schedules of charges and fees may include, but not be limited to:

- A. User classification charges.
- B. Fees for monitoring.
- C. Fees for permit applications.
- D. Appeal fees.
- E. Charges and fees based on wastewater constituents and characteristics, to include cost recovery provisions of the Federal Act.

§ 191-23. Basis for determination of charges.

- A. Charges and fees shall be based upon a minimum basic charge for each premises, computed on the basis of wastewater from a domestic premises with the following characteristics:
 - (1) Biochemical oxygen demand: 250 milligrams per liter.
 - (2) Chemical oxygen demand: 375 milligrams per liter.
 - (3) Suspended solids: 250 milligrams per liter.
 - (4) Oil and grease: 40 milligrams per liter.
 - (5) Volume: 224 gallons per day per domestic premises.
- B. The charges and fees for all classifications of users other than the basic domestic premises shall be based upon the relative difference between the average wastewater constituents and characteristics of that classification as related to those of a domestic premises.
- C. The charges and fees established for permit users shall be based upon the measured or estimated constituents; and characteristics of the wastewater discharge of that user may include, but not limited to, biochemical oxygen demand, chemical oxygen demand, suspended solids, oil and grease, chlorine demand, and volume.

ARTICLE VII
Enforcement

§ 191-24. Accidental discharges.

A. Notification of discharge.

- (1) Users shall notify the Borough immediately upon accidentally discharging wastes in violation of this chapter to enable counter measures to be taken to minimize damage to the community sewer, treatment facility, treatment processes and the receiving waters.
- (2) This notification shall be followed, within 15 days of the date of occurrence, by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrence.
- (3) Such notification will not relieve users of liability for any expense, loss or damage to the sewer system, treatment plant or treatment process, or for any fines imposed on the Borough on account thereof for violations of state and federal regulations.

B. Notice to employees. In order that employees of users be informed of Borough requirements, users shall make available to their employees copies of this chapter, together with such other wastewater information and notices which may be furnished by the Borough from time to time directed toward more effective water pollution control. A notice shall be furnished and permanently posted on the user's bulletin board advising employees whom to call in case of an accidental discharge in violation of this chapter.

C. Preventive measures. Any direct or indirect connection or entry point for persistent or deleterious wastes to the user's plumbing or drainage system should be eliminated. Where such action is impractical or unreasonable, the user shall appropriately label such entry points to warn against discharge of such wastes in violation of this chapter.

§ 191-25. Issuance of cease and desist orders.

When the Borough finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this chapter or the provisions of a wastewater discharge permit, the Manager may issue an order to cease and desist and direct that those persons not complying with such prohibitions, limits, requirements or provisions to comply forthwith, comply in accordance with a time schedule set forth by the Borough or take appropriate remedial or preventive action in the event of a threatened violation.

§ 191-26. Submission of time schedule.

When the Borough finds that a discharge of wastewater has been taking place, in violation of prohibitions or limitations prescribed in this chapter, or wastewater source control requirements, effluent limitations or pretreatment standards, or the provisions of a wastewater discharge permit, the Borough may require that user to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements.

§ 191-27. Appeals.

- A. Any user, permit applicant or permit holder affected by any decision, action or determination, including cease and desist orders, made by the Manager, interpreting or implementing the provisions of this chapter or in any permit issued herein, may file with the Manager a written request for reconsideration within 10 days of such decision, action or determination, setting forth in detail the facts supporting the user's request for reconsideration.
- B. If the ruling made by the Manager is unsatisfactory to the person requesting reconsideration, he may, within 10 days after notification of Borough action, file a written appeal to the Borough's governing body. The written appeal shall be heard by the governing body within 30 days from the date of filing. The Borough's governing body shall make a final ruling on the appeal within 15 days of the close of the meeting. The Manager's decision, action or determination shall remain in effect during such period of reconsideration.

ARTICLE VIII**Abatement****§ 191-28. Public nuisance.**

Discharges of wastewater in any manner in violation of this chapter or of any order issued by the Manager as authorized by this chapter, is hereby declared a public nuisance and shall be corrected or abated as directed by the Manager. Any person creating a public nuisance shall be subject to provisions of Borough codes or ordinances governing such nuisance.

§ 191-29. Injunction.

Whenever a discharge of wastewater is in violation of the provisions of this chapter or otherwise causes or threatens to cause a condition of contamination, pollution or nuisance, the Borough may petition the Superior Court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate in restraining the continuance of such discharge.

§ 191-30. Damage to facilities.

When a discharge of wastes causes an obstruction, damage, or any other impairment to Borough facilities, the Borough may assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's sewer service charge.

§ 191-31. Correction of violations; collection of costs.

In order to enforce the provisions of this chapter, the Borough may correct any violation hereof. The cost of such correction may be added to any sewer service charge payable by the person violating this chapter or the owner or tenant of the property upon which the violation occurred, and the Borough shall have such remedies for the collection of such costs as it has for the collection of sewer service charges. The Borough may also petition the Superior Court

for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining any person from the continued violation of this chapter.

§ 191-32. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

§ 191-33. Falsifying of information.

Any person who knowingly makes any false statement, representation, record, report, plan or other document filed with the Borough or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter is hereby declared to be in violation of this chapter and subject to the civil liabilities imposed under this chapter.²

§ 191-34. Inspection and maintenance of facilities; termination of services.

- A. In order to effect its powers, the Borough may enter upon private property for the purpose of inspection and maintenance of sanitary and waste disposal facilities and may terminate service to property in which a violation of any rule, regulation, or this chapter is found to exist.
- B. In the event that a sewer bill remains unpaid for a period of 30 days after the bill is rendered and mailed, the water supply and sewer service to said premises may be terminated upon notice as provided hereafter. **[Amended 12-6-1988 by Ord. No. 29-88]**
- C. Notice of termination of service for nonpayment shall be forwarded by certified mail to the customer and the owner of the premises, as listed on the last tax duplicate in the Borough Tax Assessor's Office, on two occasions, once each week for two consecutive weeks. **[Added 12-6-1988 by Ord. No. 29-88]**
- D. The notice of termination shall state the date of the proposed termination of service and the reason therefor. **[Added 12-6-1988 by Ord. No. 29-88]**

2. Editor's Note: See § 191-32, Violations and penalties.

Chapter 192

ILLICIT CONNECTION TO STORMWATER SYSTEM

§ 192-1. Purpose.

§ 192-2. Definitions.

§ 192-3. Prohibited conduct.

§ 192-4. Enforcement and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 5-16-2006 by Ord. No. 2006-11. Amendments noted where applicable.]

§ 192-1. Purpose.

The purpose of this chapter is to prohibit illicit connections to the municipal separate storm sewer system within the Borough of Butler, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 192-2. Definitions.

For the purpose of this Chapter, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The definitions below are the same as or based on corresponding definitions in the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A-1.2.

DOMESTIC SEWAGE — Waste and wastewater from humans or household operations.

ILLICIT CONNECTION — Any physical or nonphysical connection that discharges domestic sewage, noncontact cooling water, process wastewater, or other industrial waste (other than stormwater) to the municipal separate storm sewer system operated by the Borough of Butler, unless that discharge is authorized under a NJPDES permit other than the Tier A Municipal Stormwater General Permit (NJPDES Permit Number NJ0141852).

Nonphysical connections may include, but are not limited to, leaks, flows, or overflows into the municipal separate storm sewer system.

INDUSTRIAL WASTE — Nondomestic waste, including, but not limited to, those pollutants regulated under Section 307(a), (b), or (c) of the Federal Clean Water Act (33 U.S.C. § 1317(a), (b), or (c)).

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by Borough of Butler or other public body, and is designed and used for collecting and conveying stormwater. MS4s do not include combined sewer systems, which are sewer systems that are

designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.

NJPDES PERMIT — A permit issued by the New Jersey Department of Environmental Protection to implement the New Jersey Pollutant Discharge Elimination System (NJPDES) rules at N.J.A.C. 7:14A.

NONCONTACT COOLING WATER — Water used to reduce temperature for the purpose of cooling. Such waters do not come into direct contact with any raw material, intermediate product (other than heat) or finished product. Noncontact cooling water may however contain algacides, or biocides to control fouling of equipment such as heat exchangers, and/or corrosion inhibitors.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

PROCESS WASTEWATER — Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product. Process wastewater includes, but is not limited to, leachate and cooling water other than noncontact cooling water.

STORMWATER — Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

§ 192-3. Prohibited conduct.

No person shall discharge or cause to be discharged through an illicit connection to the municipal separate storm sewer system within the Borough of Butler any domestic sewage, noncontact cooling water, process wastewater, or other industrial waste (other than stormwater).

§ 192-4. Enforcement and penalties.

- A. This ordinance shall be enforced by the Police Department of Butler.
- B. Any person, firm or corporation who is found to be in violation of any of the provisions of this chapter shall, upon conviction, be punished by a fine not to exceed \$1,000 or by imprisonment in the county jail for a period not to exceed 90 days, or by both such fine and imprisonment, and each violation of any of the provisions of this chapter and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

Chapter 193

IMPROPER DISPOSAL OF WASTE IN MUNICIPAL STORM SEWER SYSTEM

§ 193-1. Purpose.

§ 193-2. Definitions.

§ 193-3. Prohibited conduct.

§ 193-4. Exceptions to prohibition.

§ 193-5. Enforcement and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 5-16-2006 by Ord. No. 2006-11. Amendments noted where applicable.]

§ 193-1. Purpose.

The purpose of this chapter is to prohibit the spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system within the Borough of Butler, so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 193-2. Definitions.

For the purpose of this Chapter, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is owned or operated by Borough of Butler or other public body, and is designed and used for collecting and conveying stormwater. MS4s do not include combined sewer systems, which are sewer systems that are designed to carry sanitary sewage at all times and to collect and transport stormwater from streets and other sources.

PERSON — Any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

STORMWATER — Water resulting from precipitation (including rain and snow) that runs off the land's surface, is transmitted to the subsurface, is captured by separate storm sewers or other sewerage or drainage facilities, or is conveyed by snow removal equipment.

§ 193-3. Prohibited conduct.

The spilling, dumping, or disposal of materials other than stormwater to the municipal separate storm sewer system within Borough of Butler is prohibited. The spilling, dumping, or

disposal of materials other than stormwater in such a manner as to cause the discharge of pollutants to the municipal separate storm sewer system is also prohibited.

§ 193-4. Exceptions to prohibition.

- A. Water line flushing and discharges from potable water sources.
- B. Uncontaminated ground water (e.g., infiltration, crawl space or basement sump pumps, foundation or footing drains, rising ground waters).
- C. Air conditioning condensate (excluding contact and noncontact cooling water).
- D. Irrigation water (including landscape and lawn watering runoff).
- E. Flows from springs, riparian habitats and wetlands, water reservoir discharges and diverted stream flows.
- F. Residential car washing water, and residential swimming pool discharges.
- G. Sidewalk, driveway and street wash water.
- H. Flows from fire fighting activities.
- I. Deicing materials properly applied to sidewalks, streets, roadways etc.
- J. Flows from rinsing of the following equipment with clean water:
 - (1) Beach maintenance equipment immediately following their use for their intended purposes; and
 - (2) Equipment used in the application of salt and de-icing materials immediately following salt and de-icing material applications. Prior to rinsing with clean water, all residual salt and de-icing materials must be removed from equipment and vehicles to the maximum extent practicable using dry cleaning methods (e.g., shoveling and sweeping). Recovered materials are to be returned to storage for reuse or properly discarded. Rinsing of equipment, as noted in the above situation is limited to exterior, undercarriage, and exposed parts and does not apply to engines or other enclosed machinery.
- K. Discharges authorized under a NJPDES permit other than the Tier A Municipal Stormwater General Permit (NJPDES Permit Number NJ0141852).

§ 193-5. Enforcement and penalties.

- A. This ordinance shall be enforced by the Police Department of Butler.
- B. Any person, firm or corporation who is found to be in violation of any of the provisions of this chapter shall, upon conviction, be punished by a fine not to exceed \$1,000 or by imprisonment in the county jail for a period not to exceed 90 days, or by both such fine and imprisonment, and each violation of any of the provisions of this chapter and each day the same is violated shall be deemed and taken to be a separate and distinct offense.

Chapter 194

SKATES AND SKATING

§ 194-1. Helmets required.

§ 194-2. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 1-17-1995 by Ord. No. 1994-25. Amendments noted where applicable.]

GENERAL REFERENCES

[Parks and recreation areas — See Ch. 168.](#)

§ 194-1. Helmets required.

A person under 17 years of age shall not ride upon in-line skates, roller blades, roller skates, skateboards or similar devices unless that person is wearing a properly fitted and fastened helmet which meets the standards of the American National Standards Institute (ANSI Z 90.4 Bicycle Helmet Standard) or the Snell Memorial Foundation's 1984 Standard for Protective Headgear for Use in Bicycling or a helmet which is designed specifically for use with the particular device being used.

§ 194-2. Violations and penalties. [Amended 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 196

SNOW REMOVAL

- § 196-1. Statutory authority.
- § 196-2. Removal required; time limit.
- § 196-3. Snow or ice from private property.
- § 196-4. Failure to remove.
- § 196-5. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 3-6 of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Vehicles and traffic generally — See Ch. 225.](#)

§ 196-1. Statutory authority.

The provisions of this chapter are adopted pursuant to the authority conferred by N.J.S.A. 40:65-12.

§ 196-2. Removal required; time limit. [Amended 3-15-2011 by Ord. No. 2011-1]

The owner of premises abutting or bordering upon any street in the Borough shall remove all snow and ice from the abutting paved sidewalks of such streets within 48 hours of the time the precipitation falls.

§ 196-3. Snow or ice from private property.

No person, firm or corporation, the owner, tenant or occupant of any premises abutting on any street shall throw, place or deposit any snow or ice into or upon any street in the Borough, it being the intent and purpose of this provision to prohibit all persons from throwing, casting, placing or depositing snow and ice, which accumulated within the private property belonging to the person, upon the paved sidewalks or streets of the Borough.

§ 196-4. Failure to remove.

In case such snow or ice shall not be removed from such paved sidewalks or shall be cast, deposited thereon or placed upon the paved sidewalks or the street by the owner, tenant or

occupants of any premises, as provided in §§ 196-1 and 196-2 hereof, the same may be removed under the direction of the Superintendent of Public Works, and the cost of such removal, as nearly as can be ascertained, shall be certified by him to the Borough Council. The Borough Council shall examine such certification and, if found to be correct, shall cause such cost to be charged against such real estate so abutting or bordering upon such sidewalks, and the amount so charged shall forthwith become a lien and a tax upon such real estate and be added to, recorded and collected in the same way and manner as the taxes next to be levied and assessed upon such premises and shall bear interest and be enforced and collected by the same officers and in the same manner as other taxes. The imposition and collection of a fine or fines imposed by the provision of this chapter shall not constitute any bar to the right of the Borough to collect the cost as certified for the removal of the snow and ice in the manner herein authorized.

§ 196-5. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 199

PRIVATE STORM DRAIN INLET RETROFITTING

§ 199-1. Purpose.

§ 199-4. Design Standard.

§ 199-2. Definitions.

§ 199-5. Enforcement.

§ 199-3. Prohibited Conduct.

§ 199-6. Penalties.

[HISTORY: Adopted by the Mayor and Council on 8-2-2010 by Ord. No. 2010-12.]

§ 199-1. Purpose.

An ordinance requiring the retrofitting of existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system operated by the Borough of Butler so as to protect public health, safety and welfare, and to prescribe penalties for the failure to comply.

§ 199-2. Definitions

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a. Municipal separate storm sewer system (MS4)- a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by the Borough of Butler or other public body, and is designed and used for collecting and conveying stormwater.
- b. Person - any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.
- c. Storm drain inlet- an opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

[Former Ch. 199, Soliciting and Canvassing, adopted as Section 4-2 of the Revised General Ordinances of 1976, as amended, was repealed 12-10-1991 by Section 1 of Ord. No. 1991-18. See now Ch. 91, Canvassers, Solicitors and Peddlers.]

d. Waters of the State – means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

§ 199-3. Prohibited Conduct.

No person in control of private property (except a residential lot with one single family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either:

1. Already meets the design standard below to control passage of solid and floatable materials; or
2. Is retrofitted or replaced to meet the standard in Section 199-4 below prior to the completion of the project.

§ 199-4. Design Standard.

Storm drain inlets identified in Section 199-3 shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids.

1. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:
 - a. The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or
 - b. A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads (including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

2. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

3. This standard does not apply:

- a. Where the municipal engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
- b. Where flows are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:
 - i. A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or
 - ii. A bar screen having a bar spacing of 0.5 inches.
- c. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars; or
- d. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

§ 199-5. Enforcement.

This ordinance shall be enforced by a municipal official designated by the Borough Administrator.

§ 199-6. Penalties.

Any person(s) who is found to be in violation of the provisions of this ordinance shall be subject to a fine not to exceed \$500.00 for each storm drain inlet that is not retrofitted to meet the design standard.

Chapter 200

PRIVATELY OWNED SALT STORAGE

§ 200-1. Purpose.

§ 200-4. Exemptions.

§ 200-2. Definitions.

§ 200-5. Enforcement.

§ 200-3. Deicing Material Storage Requirements.

§ 200-6. Violations and Penalties.

[HISTORY: Adopted by the Mayor and Council on 10-17-2023 by Ord. No. 2023-11.]

§ 200-1. Purpose.

The purpose of this ordinance is to prevent stored salt and other solid de-icing materials from being exposed to stormwater.

This ordinance establishes requirements for the storage of salt and other solid de-icing materials on properties not owned or operated by the municipality (privately-owned), including residences, in Borough of Butler to protect the environment, public health, safety and welfare, and to prescribe penalties for failure to comply.

§ 200-2. Definitions.

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings stated herein unless their use in the text of this Article clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

- A. “De-icing materials” means any granular or solid material such as melting salt or any other granular solid that assists in the melting of snow.
- B. “Impervious surface” means a surface that has been covered with a layer of material so that it is highly resistant to infiltration by water.
- C. “Storm drain inlet” means the point of entry into the storm sewer system.
- D. “Permanent structure” means a permanent building or permanent structure that is anchored to a permanent foundation with an impermeable floor, and that is completely roofed and walled (new structures require a door or other means of sealing the access way from wind driven rainfall).

A fabric frame structure is a permanent structure if it meets the following specifications:

- (1) Concrete blocks, jersey barriers or other similar material shall be placed around the interior of the structure to protect the side walls during loading and unloading of de-icing materials;
- (2) The design shall prevent stormwater run-on and run through, and the fabric cannot leak;
- (3) The structure shall be erected on an impermeable slab;
- (4) The structure cannot be open sided; and
- (5) The structure shall have a roll up door or other means of sealing the access way from wind driven rainfall.

E. "Person" means any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

F. "Resident" means a person who resides on a residential property where de-icing material is stored.

§ 200-3. Deicing Material Storage Requirements.

A. Temporary outdoor storage of de-icing materials in accordance with the requirements below is allowed between October 15th and April 15th:

- (1) Loose materials shall be placed on a flat, impervious surface in a manner that prevents stormwater run-through;
- (2) Loose materials shall be placed at least 50 feet from surface water bodies, storm drain inlets, ditches and/or other stormwater conveyance channels;
- (3) Loose materials shall be maintained in a cone-shaped storage pile. If loading or unloading activities alter the cone-shape during daily activities, tracked materials shall be swept back into the storage pile, and the storage pile shall be reshaped into a cone after use;
- (4) Loose materials shall be covered as follows:
 - (a) The cover shall be waterproof, impermeable, and flexible;
 - (b) The cover shall extend to the base of the pile(s);
 - (c) The cover shall be free from holes or tears;
 - (d) The cover shall be secured and weighed down around the perimeter to prevent removal by wind; and

- (e) Weight shall be placed on the cover(s) in such a way that minimizes the potential of exposure as materials shift and runoff flows down to the base of the pile.
 - [1] Sandbags lashed together with rope or cable and placed uniformly over the flexible cover, or poly-cord nets provide a suitable method. Items that can potentially hold water (e.g., old tires) shall not be used;
 - (5) Containers must be sealed when not in use; and
 - (6) The site shall be free of all de-icing materials between April 16th and October 14th.
- B. De-icing materials should be stored in a permanent structure if a suitable storage structure is available. For storage of loose de-icing materials in a permanent structure, such storage may be permanent, and thus not restricted to October 15 -April 15.
- C. All such temporary and/or permanent structures must also comply with all other Borough of Butler ordinances, including building and zoning regulations.
- D. The property owner, or owner of the de-icing materials if different, shall designate a person(s) responsible for operations at the site where these materials are stored outdoors, and who shall document that weekly inspections are conducted to ensure that the conditions of this ordinance are met. Inspection records shall be kept on site and made available to the municipality upon request.
- (1) Residents who operate businesses from their homes that utilize de-icing materials are required to perform weekly inspections.

§ 200-4. Exemptions.

Residents may store de-icing materials outside in a solid-walled, closed container that prevents precipitation from entering and exiting the container, and which prevents the de-icing materials from leaking or spilling out. Under these circumstances, weekly inspections are not necessary, but repair or replacement of damaged or inadequate containers shall occur within 2 weeks.

If containerized (in bags or buckets) de-icing materials are stored within a permanent structure, they are not subject to the storage and inspection requirements in § 200-3 above. Piles of deicing materials are not exempt, even if stored in a permanent structure.

This ordinance does not apply to facilities where the stormwater discharges from de-icing material storage activities are regulated under another NJPDES permit.

§ 200-5. Enforcement.

This ordinance shall be enforced by the Butler Police Department and/or the Property Maintenance Officer or another person designated by the Borough Administrator during the course of ordinary enforcement duties.

§ 200-6. Violations and Penalties.

Any person(s) who is found to be in violation of the provisions of this ordinance shall have 72 hours to complete corrective action. Repeat violations and/or failure to complete corrective action within 72 hours after notice is received shall subject such person(s) to fines and penalties in accordance with Chapter 230 of the Revised General Ordinances..

Chapter 202

STREETS AND SIDEWALKS

ARTICLE I

Obstructions

- § 202-1. Obstructions prohibited; exception.
- § 202-2. Construction for recreational facilities prohibited; exception.
- § 202-3. Violations and penalties.

ARTICLE II

Street Openings

- § 202-4. Permit required.
- § 202-5. Application; fee.
- § 202-6. Issuance of permit; time limit to complete work.
- § 202-7. Restoration after excavation.
- § 202-8. Deposit to be returned.
- § 202-9. Application to public utilities.
- § 202-10. Excavations to be guarded.
- § 202-11. Standards and materials.
- § 202-12. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

[Street and sidewalk specifications — See Ch. 143, Part 4.](#) [Vehicles and traffic generally — See Ch. 225.](#)
[Snow removal — See Ch. 196.](#)

ARTICLE I

Obstructions

[Adopted as Section 3-10 of the Revised General Ordinances of 1976]

§ 202-1. Obstructions prohibited; exception.

No person shall unnecessarily obstruct any street, avenue, road, highway, alley or public place with any kind of vehicle or vehicles or with box or boxes, lumber, wood or any other thing. The provisions of this Article shall not prevent persons who are building from occupying, until notified by any Borough official to cease such occupancy, 1/2 of the street in front of the place where they are so building, unless another person is building on the opposite side of the street; in which case, neither shall occupy more than 1/4 of the street. No person who is building shall continue such occupancy of any street after notice from any Borough official or police officer to discontinue the same.

§ 202-2. Construction for recreational facilities prohibited; exception.

Except as provided under the provisions of N.J.S.A. 40:67-16.7, as amended and supplemented, which permits the temporary closing of streets for the provision of recreational facilities, no person shall construct, erect or maintain any device, structure, equipment or other

thing in or within 10 feet of the edge of any street, road, lane, alley or other public thoroughfare in the Borough, the purpose of which is to encourage, facilitate or assist in the utilization of any such street, road, lane, alley or other public thoroughfare for any sport, athletic or other recreational activity which shall obstruct or have the potential effect of obstructing vehicular traffic.

§ 202-3. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this article shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

ARTICLE II
Street Openings
[Adopted 12-2-1986 by Ord. No. 23-86]

§ 202-4. Permit required.

It shall be unlawful to dig, excavate, open or in any manner interfere with or disturb the surface of any street or sidewalk area within the Borough of Butler for any purpose whatsoever without first securing a permit therefor as hereinafter provided.

§ 202-5. Application; fee. [Amended 11-18-1991 by Ord. No. 1991-17]

Application for permission to make an excavation in any street between the curblines or in any sidewalk area shall be made to the Construction Department on forms approved by the Borough. Such application shall be signed by the owner of the premises and shall specify the length and width of such excavation, the purpose for which the excavation is to be made and the estimated time required to complete the work and restore the surface. Each application shall first be submitted to the Borough's Engineer, who shall determine the amount of the deposit to be accompanied with the application when submitted to the Construction Department. The amount of the application fee shall be a minimum of \$100. The fee shall be increased by \$2 for each additional linear foot beyond 20 feet.

§ 202-6. Issuance of permit; time limit to complete work.

The Borough Clerk shall, upon receipt and examination of the application and the deposit and fee referred to in § 202-5 hereinabove, issue a permit under his hand and Seal of the Borough for the excavation in any street or sidewalk area. The Borough Clerk shall specify on the permit that such work shall be completed and the road or sidewalk surface restored within 48 hours after work is commenced.

§ 202-7. Restoration after excavation.

The applicant to whom such permit is issued shall, within the time limit in such permit, replace the earth and pavement in the excavation in such manner that the same shall be left in as good condition as it was before the excavation was commenced. By the acceptance of such permit, the applicant shall be deemed to have agreed to comply with the terms hereof and, upon his failure to do so, to pay, on demand, any cost or expense that the Borough may incur by reason of any shrinkage or settlement in the excavated area resulting from such excavation if such shrinkage or settlement shall occur within three months from the time the surface thereof is restored.

§ 202-8. Deposit to be returned.

Upon the expiration of three months from the time of the satisfactory restoration of the surface of any such excavation, the Borough Clerk shall return to the applicant any portion of the initial deposit as determined to be required by the Borough Engineer, less the amount deducted by the Borough for inspection fees and services related thereto and/or the costs of any restoration incurred by the Borough relative to the excavated area.

§ 202-9. Application to public utilities.

Nothing in this Article shall apply to any public utility as defined in N.J.S.A. 48:2-13 nor to any of its employees or agents in the conduct of its business upon the posting of a bond of \$10,000, which shall be a continuing bond to the Borough of Butler.

§ 202-10. Excavations to be guarded.

The applicant to whom a permit is granted shall keep the excavations properly guarded and shall place lights there at night. At all times, such excavations shall be made so as to allow the safe passage of pedestrians and vehicles in and along the public way. The Borough shall not be responsible for any injury or damage to person or property resulting from the negligence of the applicant or his servants, agents or employees in making, grading or filling any excavation permitted under the terms of this Article.

§ 202-11. Standards and materials.

All work shall be in accordance with the latest Standard Specifications for Road and Bridge Construction of the New Jersey Department of Transportation. Sidewalks should have a minimum thickness of four inches, and driveway aprons, eight inches. Pavement should consist of a minimum of:

- A. Four-inch thickness: bituminous stabilized base course, Mix I-2.
- B. Two-inch thickness: bituminous concrete surface course, Mix I-5.

§ 202-12. Violations and penalties. [Amended 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this article shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 207

SWIMMING POOLS

- § 207-1. Title.
- § 207-2. Term defined.
- § 207-3. Conformance.
- § 207-4. Permits.
- § 207-5. Standards.
- § 207-6. Enforcement.
- § 207-7. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Ch. IX of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Board of Health — See Ch. 25.](#)

[Housing standards — See Ch. 136.](#)

[Uniform construction codes — See Ch. 101.](#)

[Land use — See Ch. 143.](#)

§ 207-1. Title.

This chapter may be referred to and be known as the "Swimming Pool Ordinance of the Borough of Butler."

§ 207-2. Term defined.

For the purpose of this chapter, a private swimming pool established or maintained upon any premises by any individual for his own or his family's use, or guests of his household, shall mean:

- A. All such artificially constructed swimming or wading pools or tanks, some part or all of which require a permanent installation and are more than 24 inches in depth and have a volume of more than 200 cubic feet.
- B. All portable, collapsible or temporary swimming or wading pools if any part thereof shall require a permanent installation and if the water edge thereof is higher than 36 inches from the ground on which it is situated.

§ 207-3. Conformance.

No person shall establish or construct or alter a private swimming pool which is not in conformity with the requirements of this chapter.

§ 207-4. Permits. [Amended 6-7-1982 by Ord. No. 82-5]

- A. Plans and specifications required. An application for a permit to construct a private swimming pool shall be made to the Construction Code Official and shall include the final plans and specifications therefor.

- B. Issuance; fee. Upon compliance with all provisions of this chapter and upon approval by the Construction Code Official of the final plans, specifications and reports, together with the data contained therein, a permit shall be issued for the location and construction of the private swimming pool as requested upon payment of a fee as set forth in Subsection 10-1.4.¹

§ 207-5. Standards. [Amended 6-7-1982 by Ord. No. 82-5]

No private swimming pool shall be located and constructed or altered until a building permit for the same shall be issued by the Construction Code Official and shall meet the following requirements:

- A. Design and location. The pool shall be suitably designed and located so as not to become a nuisance or hazard to adjacent property owners or the public.
- B. Location. No swimming pool shall be constructed or installed nearer than 10 feet to any property line or structure nor nearer to the street line on which the premises fronts than the main rear wall of the dwelling erected thereon. No private swimming pool or wading pool shall be constructed or installed on any lot unless upon such lot shall be located a residence building or unless such lot is part of a residence curtilage.
- C. Surface area. The surface area of the water shall not exceed 50% of the rear yard area.
- D. Appearance. All areas surrounding the pool shall be made and kept neat and attractive so as to be in conformity with surrounding property, and no rubbish, debris or litter shall be permitted to remain or accumulate in or about the pool.
- E. Material or construction. All material used in the construction of swimming pools shall be waterproof and easily cleaned. Aluminum paint shall not be used as a finish. Sand or earth bottoms shall not be used.
- F. Water supply. There shall be no physical connection between a potable public or private water supply system and such pools or their circulating systems, unless the same is approved by the officials of the Borough.
- G. Discharge system. No pool drain shall be connected directly to the municipal sanitary sewer system.
- H. Disinfection, infiltration, recirculation and bacteriological standards. All swimming pools shall be constructed, installed and maintained so as to provide equipment necessary for the chlorination or other disinfection, filtration and recirculation of the pool water so as to comply with approved bacteriological standards, as may be promulgated by regulations issued by the Board of Health.
- I. Fencing. All private swimming pools constructed or installed shall be completely surrounded by fencing. The fencing shall not be less than 36 inches in height and be of

1. Editor's Note: "Subsection 10-1.4," Fees, refers to original Section 10-1, Building Code, of the Revised General Ordinances of 1976. Said section was superseded 8-15-1977 by Ord. No. 77-7. For current provisions, see [Ch. 101, Construction Codes, Uniform.](#)

the type of a chain link fence or similar secure enclosure of durable construction and self-closing gates. Every gate of such fence shall be kept securely locked at all times when the pool is not in use. No barbed wire shall be used as fencing.

§ 207-6. Enforcement. [Amended 6-7-1982 by Ord. No. 82-5]

Every private swimming pool constructed or to be constructed in the Borough shall at all times comply with the requirements of all health authorities having jurisdiction in the premises, and any nuisance or hazard to health which may exist or develop in any such swimming pool shall forthwith be abated and removed by the person in possession of such pool upon receipt of notice from the Construction Code Official, health officer or other designated person so requiring.

§ 207-7. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89]

See [Chapter 230, Violations and Penalties.](#)

Chapter 210

TAXATION

ARTICLE I

Exemption for Home Improvements

§ 210-1. Amount of exemption.

§ 210-2. Approval pursuant to statutory provisions.

ARTICLE II

Taxation of Cannabis Sales

§ 210-3. Taxation of Cannabis Sales and Transfers.

§ 210-4. Rates.

§ 210-5. Remission of taxes.

§ 210-6. Delinquent taxes.

§ 210-7. Liability for taxes owed.

§ 210-8. Audit.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Exemption for Home Improvements

[Adopted 8-19-1980 by Ord. No. 80-16]

§ 210-1. Amount of exemption.

The first \$4,000 in the Assessor's full and true value of home improvements for each dwelling unit primarily and directly affected by a home improvement in any single or multiple-dwelling property, more than 20 years old, shall be regarded as not increasing the value of such property for a period of five years, notwithstanding that the value of the dwelling to which such improvements are made is increased thereby; provided, however, that during said period, the assessment on such dwelling shall, in no case, except that of damage through action of the elements sufficient to warrant a reduction, be less than the assessment thereon existing immediately prior to such home improvement.

§ 210-2. Approval pursuant to statutory provisions.

Any such exemption authorized pursuant to § 210-1 shall be approved and determined in accordance with the provisions of Public Law 1975, Chapter 104,¹ as amended, and any applicable rules and regulations promulgated by the Commissioner of the Department of Community Affairs.

ARTICLE II

Taxation of Cannabis Sales**[Adopted 7-20-2021 by Ord. No. 2021-17]****§ 210-3. Taxation of Cannabis Sales and Transfers.**

There is hereby imposed a sale and transfer tax on all cannabis products sold by cannabis retailers within the Borough of Butler. Such tax will be imposed at time of sale or transfer and shall further be imposed upon the value of cannabis products transferred by any concurrent license holder operating more than one establishment of any class, to or from the license holder's establishment located within the Borough of Butler to any or from the license holder's other establishments, whether or not such establishment is located within the Borough of Butler.

§ 210-4. Rates.

The tax rate for the retail sale of any cannabis product shall be 2% of the value of each receipt or transaction of sale. The tax rate for any transfer by concurrent license holder of cannabis products shall be 1% of the market value of the transferred cannabis product.

§ 210-5. Remission of taxes.

Every cannabis establishment and/or licensee shall remit taxes collected and due and owing on a quarterly basis to the municipal chief fiscal officer, along with certified copies of sales receipts and product transfer ledgers or documentation. The dates of tax remission shall be on or before April 1, July 1, October 1 and January 2, or as established by the chief fiscal officer. Each licensee shall certify to the truth and accuracy of the receipts and product transfer ledgers or documentation, and shall remit a return in a form determined by the chief fiscal officer.

§ 210-6. Delinquent taxes.

All unpaid taxes as required under this Article shall be subject to the accrual of interest and penalties at rates and penalties set forth and established for delinquent ad valorem taxes within the Borough of Butler.

§ 210-7. Liability for taxes owed.

Each cannabis establishment owner and/or licensee shall be personally liable for any and all taxes imposed under this Article and any interest and penalty accruing thereon. In addition, any unpaid balance and interest and penalties accruing thereon shall constitute a lien on the real property in which the cannabis establishment is located and such liens shall be enforced in the same manner as municipal tax liens.

§ 210-8. Audit.

Every cannabis establishment and/or licensee within the Borough of Butler is subject to audit, no greater than once per annum, of the establishment's or licensee's business records, receipts and accounting books, such audit to be performed at the chief fiscal officer's discretion, by a certified public accountant. Every cannabis establishment and licensee shall be obligated to fully comply with the requirements of an auditor. Failure to cooperate with the audit, or any misrepresentation or fraud committed by the establishment or licensee, shall result in the immediate suspension of the license.

1. Editor's Note: See N.J.S.A. 54:4-3.72 et seq.

Chapter 213

TAXICABS AND LIMOUSINES

- § 213-1. Definitions.
- § 213-2. Unlicensed soliciting.
- § 213-3. Types of licenses; transferability.
- § 213-4. Owner's license.
- § 213-5. Driver's license.
- § 213-6. Licensing.
- § 213-7. General provisions.
- § 213-8. Provision for overall service; maintenance of central place of business.
- § 213-9. Enforcement.
- § 213-10. Violations and penalties.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Ch. VII of the Revised General Ordinances of 1976; Amended 10-16-2012 by Ord. No. 2012-14. Amendments noted where applicable.]

GENERAL REFERENCES

[Licensing generally — See Ch. 150.](#)

[Vehicles and traffic generally — See Ch. 225.](#)

§ 213-1. Definitions.

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

CRUISING — The driving of an empty taxicab along a public street or public place for the purpose of soliciting passengers.

PUBLIC TAXICAB STAND — A section of a public street or of a public place set apart by ordinance of the Borough of Butler for the exclusive use of a taxicab or a limited number of taxicabs.

TAXICABS — Any motor vehicle commonly called taxi, auto car, public hack, omnibus or by whatever name or designation any such vehicle may now or hereafter be known or designated, engaged in the business of carrying passengers for hire, which is held out, announced or advertised to operate or run, or which is operated or run over any of the streets or highways of the Borough, and particularly into which are accepted and discharged such persons as may offer themselves for transportation from points or places to points or places, within and without the Borough, upon the terms, provisions or conditions prescribed in this chapter, or by the day or by the hour or other fixed period, or for a fare, provided that nothing contained in this definition shall be construed to include any motor vehicle by whatever name or designation used in transporting school children or school teachers or any autobus, jitney or other vehicles which are hired by charter or for a particular contract, or such public conveyances as are by law subject to state or federal regulation exclusively.

LIMOUSINES - Limousine or Livery Services means and includes any automobile or motor car used in the business of carrying passengers for hire to provide prearranged passenger transportation at a premium fare on a dedicated non-scheduled, charter basis that is not conducted on a regular route and with a seating capacity in no event of more than 14 passengers, not including the driver, provided that such a vehicle is certified by the manufacturer of the original vehicle and the second-stage manufacturer, if applicable, to conform to all applicable Federal Motor Vehicle Safety Standards promulgated by the United States Department of Transportation pursuant to 49 CFR Part 571 (49 CFR 571.1 et seq.) and 49 CFR Part 567 (49 CFR 567.1 et seq.), as defined in N.J.S.A. 48:16-13.

§ 213-2. Unlicensed soliciting.

No vehicle for the conveyance of passengers, other than duly licensed taxicabs, for the use of which a fare is charged, except any vehicle used and employed in transporting school children or school teachers, and except any vehicle which is subject to the exclusive jurisdiction of state or federal regulation, shall stand on or along any public street or public place, within the Borough, waiting for prospective passengers.

§ 213-3. Types of licenses; transferability.

A. Driver's license. A taxicab driver's license shall entitle the person mentioned therein to operate within the Borough any taxicab duly licensed hereunder until such license either expires or is surrendered, suspended or revoked. Such license shall not be transferable.

B. Owner's license. A taxicab owner's license shall entitle the taxicab therein described to be operated in the Borough by a driver duly licensed hereunder until the license either expires or is surrendered, suspended or revoked. Such license shall not be transferable, except as hereinafter set forth.

§ 213-4. Owner's license. [Amended 10-16-2012 by Ord. No. 2012-14.]

A. Application.

- (1) Applicant requirements. Every licensee of a taxicab shall be:
 - (a) In the case of an individual, a citizen of the United States, over the age of eighteen (18) for a taxicab, twenty-one (21) for a limousine and who shall have been a bona fide resident of the State of New Jersey for at least one (1) year immediately prior to the date of the application for such license and who has never been convicted of a crime involving moral turpitude including but not limited to those offenses listed in N.J.S. 48:16-22.3a subsection (1).
 - (b) In the case of a copartnership, each of the members thereof shall be a citizen of the United States and each of the members of which shall have been a bona fide resident of the State of New Jersey for at least one year immediately prior to the date of application for such license and who has never been convicted of a crime involving moral turpitude.
 - (c) In the case of a corporation, each of the officers and stockholders thereof shall be a citizen of the United States and each of the officers and stockholders of which shall have been a bona fide resident of New Jersey for at least one-year prior to the date of application for such license and who has never been convicted of a crime involving moral turpitude.
 - (d) Any person who owns a limousine service shall require an applicant for employment as a limousine operator or driver to be tested, at the applicants expense, for dangerous controlled substances as defined in N.J.S. 2C:35-2. Upon the advice of the State Limousine Advisory Committee, the Chief Administrator of the New Jersey Motor Vehicle Commission shall adopt regulations, pursuant to the "Administrative Procedure Act" P.L. 1968, c. 410(c.52:14B-1 et seq.), for the licensing and testing of applicants for employment as limousine operators or drivers. The regulations shall be substantially similar to the regulations of New York City concerning the testing of an applicant for a for-hire vehicle driver's license section 6-15 of Title 35 of the New York City Rules and Regulations [35 RCNY § 6-15].
- (2) Information required. All applications for a taxicab owner's license shall be made by the owner, lessee or bailee thereof, and every application shall set forth therein the name and type of vehicle for which such license is desired, the length of time the vehicle has been in use, the number of persons the vehicle is suitable for carrying, the motor number and serial number of the vehicle and also the following:
 - (a) If the owner, lessee or bailee of the vehicle is an individual, the full name and place of residence of the applicant and the length of time during which he has resided in the State of New Jersey, his place of birth, whether he is a

citizen of the United States, the names and addresses of all employers by whom, and all of the places of employment in which, he has been employed during the period of five years immediately prior to the date of the application, his marital status, whether he has been charged with, arrested for or convicted of any crime or other violation, whether he has been previously licensed to operate a taxicab and, if so, when and where, and whether any license for the operation of a taxicab previously issued to him has ever been suspended or revoked and, if so, for what cause.

- (b) If the owner, lessee or bailee of the vehicle is a copartnership, the firm name and the location of its main office and any branch offices. Each partner shall submit all of the personal information required under Subsection A(2)(a) above.
 - (c) If the owner, lessee or bailee of the vehicle is a corporation, the corporate name and the location of the main office and any branch offices. Each of the officers and stockholders shall submit all of the personal information required under Subsection A(2)(a) above.
- (3) Verification of application. No application for a taxicab owner's license shall be considered unless the contents of the same shall have been verified, by an affidavit annexed thereto, of the individual, a copartner of the copartnership or an officer of the corporation seeking the license.
- B. Insurance requirement. No taxicab owner's license shall be issued until the applicant shall submit the insurance policy, or certificate in lieu thereof, and the power of attorney required by N.J.S.A. 48:16-1 et seq., and the revisions or amendments thereto.
- C. Vehicle inspection required. No vehicle covered by the terms of this chapter shall be licensed until it has been carefully inspected by the Police Department of the Borough and found to be in a thoroughly safe, clean and fit condition for the transportation of passengers.
- D. Refusal to license; suspension; revocation; enforcement of standards. The Borough Council may refuse to approve a taxicab owner's license for or, if already issued, may suspend or revoke the license of any such vehicle found to be unsafe or unfit for the transportation of passengers. The Borough Council is hereby authorized and empowered to establish reasonable rules and regulations in respect to the construction and condition or fitness of taxicabs for the safe, proper and adequate transportation of passengers and to enforce any such rule or regulation by suspension or revocation of licenses.
- E. Approval prior to issuance of license. No taxicab owner's license to operate a taxicab shall be issued by the Borough Clerk until the application has been approved by the Borough Council.
- F. Issuance; display of license required. If, upon inspection, a taxicab is found to be in a safe, proper and fit condition for the transportation of passengers and to conform to the provisions of this chapter and to the rules and regulations established hereunder, and upon approval of the Borough Council and upon payment of the proper license fee, the taxicab shall be licensed by the delivery by the Borough Clerk to the applicant therefor

- of a card in such form as may be prescribed by the Borough Council. Such card shall set forth the location of the public taxicab stand to be used by the vehicle, if any stand has been assigned for the use thereof, and the name of the owner of the vehicle. The card shall be conspicuously displayed within the taxicab.
- G. Expiration date; fees. Every taxicab owner's license granted for each taxicab shall expire on December 31 next succeeding the date of issuance thereof, unless sooner suspended or revoked by the Borough Council. The annual fee for such license shall be the sum of \$25.
- H. Transferability of license. A taxicab owner's license may be transferred to another vehicle owned by the licensee, upon approval thereof by the Borough Council, after inspection thereof has been made. Such transfer shall be limited to equipment that is replaced. Such transfer shall be made by filing a notice with the Borough Clerk for approval of the Borough Council at its next meeting, and the licensee shall have the right to temporarily operate the replaced equipment until such next meeting of the Borough Council.
- I. Compliance with laws mandatory. No owner, lessee or bailee of any taxicab shall operate, or cause or permit the operation of such taxicab, nor shall any taxicab owner's license for the taxicab be issued or permitted to be in effect, until and unless the owner, lessee or bailee shall have fully complied, and shall continue to comply, with all the rules of the State of New Jersey in respect to such vehicle and the operation thereof.
- J. Revocation of license. Any taxicab owner's license granted under the provisions of this chapter may be suspended or revoked at any time by the Borough Council if the vehicle for which such license shall have been granted shall be used for any improper, unlawful or illegal business or purpose, if the vehicle shall not be kept in a clean, safe and proper condition for the transportation of passengers, if the vehicle shall not be kept in conformity with the terms of this chapter or laws of the State of New Jersey, or for any violation of any of the provisions of the rules or regulations established by the Borough Council.
- K. Number of licenses issued restricted. No more than eight taxicab owners' licenses shall be issued and in force at any one time in the Borough.
- L. Applicant must present at time of application to the Municipal Clerk a "Letter of Qualification" from the State of New Jersey Department of Motor Vehicles for the applicant and each driver. This certifies drivers based on the results of a fingerprint live scan for a State of New Jersey criminal background check. Application must include a Corp Code Certificate issued by DMV. If vehicles are not parked in the Borough of Butler, applicant must present the Municipal Clerk Zoning Certificates from the municipality where the vehicles will be parked. Any limousine parked or stored overnight within the Borough are subject to the Zoning rules and regulations; approval from the Zoning Officer is required at time of application for a license. The Borough of Butler seasonal off-street parking rules must be adhered to. A complete copy of the Insurance Policy in the correct company name with all vehicles covered included must be submitted with the application. Copies of registrations for licensed limousines must be provided to the Municipal Clerk after licensing. Failure to provide any of the required documentation will result in delay or denial of the license.

§ 213-5. Driver's license.

- A. Application. No person shall drive a taxicab without first having obtained a taxicab driver's license. Every applicant for such license to drive a taxicab shall furnish satisfactory evidence that he has received a driver's license from the Motor Vehicle Department of the State of New Jersey. Each applicant for such license to drive a taxicab must:
- (1) State the name of the licensee of a taxicab by whom or which he will be employed.
 - (2) Be no less than 21 years of age, a citizen of the United States, and a bona fide resident of the State of New Jersey for at least one year next preceding the date of such application. The Borough Council may, in a specific case, waive the age requirement.
 - (3) Be able to read and write the English language.
 - (4) Present, if required by the Borough Council, evidence that he is of sound physique, good eyesight, is not afflicted with any infection of body or mind which might render him unfit to safely and properly drive a taxicab.
 - (5) Be clean and neat in dress and person.
 - (6) Not be addicted to the use of intoxicating liquors or narcotics. No taxicab driver's license shall be issued by the Borough Clerk unless and until the application thereof has been approved by the Borough Council.
- B. Expiration date; fee. Every such taxicab driver's license shall expire not later than December 31 next succeeding the date of issuance thereof, unless sooner suspended or revoked by the Borough Council. The annual fee to be paid for each driver's license, and for any renewal thereof, shall be the sum of \$2.
- C. Issuance of badge; deposit required. Every such licensed driver shall deposit with the Borough Clerk, before the issuance of a license to him, the sum of \$3, and, upon the making of such deposit, the Clerk shall issue to such licensed driver a badge of such form and style as the Borough Council may direct, bearing the license number of the driver, which badge, under penalty of suspension or revocation of the license of such driver, shall be constantly and conspicuously displayed on the driver's outer garment when he is engaged in his employment. Such deposit shall be returned upon expiration, suspension or revocation, provided that the badge is surrendered in good condition. In the event that such badge is not returned within three months from expiration, suspension or revocation of such driver's license, the deposit shall be considered forfeited, and the moneys shall become the general funds of the Borough.
- F. Temporary licenses. The Borough Clerk shall be empowered to issue a temporary driver's license, provided that the approval of the Chief of Police is obtained, but in no event shall such temporary license be granted for a period longer than 30 days. Any person to whom any such temporary license to drive a taxicab shall have been issued shall be furnished by the Clerk with a badge of the type hereinbefore described upon deposit of the sum of \$3, which sum shall be refunded upon the surrender of the badge in good condition. The fee for any temporary permit shall be the sum of \$1.

- E. Revocation of license. Taxicab drivers' licenses may be suspended or revoked at any time by the Borough Council.

§ 213-6. Licensing.

- A. Applications to include written consent. Every applicant for any of the licenses to be granted under this chapter shall attach a written consent to the application for such license whereby the applicant agrees to abide by all of the provisions of this chapter and the rules and regulations to be established hereunder agreeing that the issuance of such license is a privilege and that the same is subject to revocation or suspension for any violation of the terms of this chapter or the rules and regulations thereunder.
- B. Selling, loaning or disposing of license prohibited. No person shall sell, loan or otherwise dispose of any license, badge, card, plate or other thing delivered by the Borough Council with any such license issued under the provisions of this chapter.

§ 213-7. General provisions.

- A. Taxicab stands; prohibitions.
- (1) Cabs at designated stands only. No taxicab shall occupy any public taxicab stand other than the stand designated in the license issued for the occupation by such taxicab. Such licensee shall not permit his taxicabs to stand in any other place in the Borough.
- (2) Repairs and painting prohibited. No person shall make any repairs on any taxicab or paint any such vehicle while occupying space in any such public taxicab stand.
- B. Refusal of hire. No driver of any taxicab shall refuse to transport any orderly person applying for a taxicab who agrees to pay the proper rate of fare.
- C. Soliciting prohibited. No driver of any taxicab shall solicit employment in the transportation of passengers by driving upon or along any street or highway or other such places within the Borough.
- D. Found articles. Every driver of any taxicab shall, within a reasonable time, after termination of any hiring or employment, carefully search such taxicab for any property lost or left within and, unless any such property shall be sooner delivered to the owner thereof, shall within 24 hours after finding any such property deliver such property to the Police Department of the Borough.

§ 213-8. Provision for overall service; maintenance of central place of business. [Added 11-21-1978 by Ord. No. 78-17]

All persons engaged in the taxicab business in the Borough of Butler operating under the provisions of this chapter shall render an overall service to the public desiring to use taxicabs and shall maintain a central place of business and shall keep the same open from 6:00 a.m. to 6:00 p.m. They shall answer all calls received by them for services inside the Borough limits of the Borough of Butler as soon as they can do so, and, if said service cannot be rendered within a reasonable time, they shall notify the prospective passenger as to how much longer it will be until said call can be answered and give the reason therefor. Any holder of a license who shall refuse to accept a call anywhere within the limits of the Borough of Butler at any time when such holder has taxicabs available or who shall fail or refuse to give overall service shall be deemed to have violated this chapter.

§ 213-9. Enforcement.

- A. Power of Council to make regulations. The Borough Council may make such rules and regulations in relation to the operation of the taxicabs and the conduct of the operators thereof as it may, from time to time, determine to be necessary and proper in the best interest of the citizens of the Borough.
- B. Notice of suspension or revocation; right to hearing. Every licensee shall be entitled to five days' notice in writing of the intended action of the Borough Council to suspend or revoke such license. Such notice shall state the reasons for such intended revocation or suspension. The hearing on such intended revocation or suspension shall be conducted by the Borough Council at the Municipal Building. Every licensee affected shall have the right to be heard in person or by counsel.

§ 213-10. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89]

- A. Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler. [Amended 4-18-2006 by Ord. No. 2006-7]
- B. The imposition of the foregoing penalties shall not bar the right of the Borough Council to revoke or suspend the license of such offender.

Chapter 216

TOWING AND STORAGE OF VEHICLES

- § 216-1. Purpose.
- § 216-2. License required.
- § 216-3. Application for license.
- § 216-4. Investigation and inspection.
- § 216-5. Requirements for approval.
- § 216-6. Duration of licenses.
- § 216-7. Minimum standards for wreckers or tow trucks.
- § 216-8. Insurance policies.
- § 216-9. Display of identification card.
- § 216-10. Rotating call list.
- § 216-11. Service rates.
- § 216-12. Reports and receipts.
- § 216-13. Conduct of owners and operators.
- § 216-14. Records and impoundment license.
- § 216-15. Suspension and revocation of license.
- § 216-16. Abandoned or unclaimed vehicles.
- § 216-17. Sale of unclaimed or abandoned vehicles.
- § 216-18. Fees.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 1-19-1993 by Ord. No. 1992-26. Amendments noted where applicable.]

§ 216-1. Purpose.

- A. It is the purpose of this chapter to establish the minimum requirements for a contractor to do towing work and/or vehicle removal and/or impoundment of vehicles, four wheels or less, for the Borough of Butler when determined necessary by the Butler Police Department.
- B. This work includes but is not limited to vehicles that are impounded for illegal parking; vehicle found to be stolen or vehicles that are abandoned or found to be unregistered and/or uninsured; vehicles involved in accidents that must be removed from the streets; and vehicles which have become disabled and in need of removal and the Butler Police Department has been asked by the motorist to call for towing or road service or that have to be towed and/or impounded for any other reason at the discretion of the Butler Police Department.

§ 216-2. License required. [Amended 5-17-2005 by Ord. No. 2005-9; 2-20-2007 by Ord. No. 2007-4]

No person, firm or corporation who or which wishes to engage in municipal towing at police request shall engage in the business of operating wreckers or tow trucks for the aforementioned purpose within the Borough without first obtaining the necessary license, as hereinafter provided, from the Mayor and Council. There shall be a limitation of three in the number of licenses issued annually for police towing. Current licensees shall be given the opportunity to renew their license for the following year prior to any new applications being

considered. In the event that there are less than three renewals, new applications will be considered. Application for a new license shall be considered on a first-come first-serve basis. The Mayor and Council may designate one alternate tower who shall be appointed for a one-year period and shall be contacted in the event the tower who is currently scheduled on the towing rotation is unavailable or unable to respond when contacted by the police. Current alternate tower licensee shall be given an opportunity to renew prior to new alternate applications being considered and shall be given the first opportunity to fill a permanent tower slot if one becomes available. An alternate tower applicant must file an application but there shall be no license fee charged to the designated alternate.

§ 216-3. Application for license.

The application for a license issued under this chapter shall be upon forms prepared and made available by the Borough Clerk.

§ 216-4. Investigation and inspection. [Amended 2-20-2007 by Ord. No. 2007-4]

Upon receipt of a completed application, the Borough Clerk shall forward the application to the Chief of Police. The Chief of Police shall obtain the following information and report this information to the Borough Council within 30 days after receipt of any application:

- A. A criminal history check with the New Jersey State Police Bureau of Investigation. The Borough may disqualify anyone that has been convicted of a crime within the past 10 years, which crime would indicate that the contractor or his employees may not be responsible to perform in the best interest of others. Such crimes would include, but not be limited to, car theft, stealing of car parts, break-in, thefts, etc.
- B. The condition of all vehicles which are to be utilized in the business.
- C. The condition of the proposed storage facility.

§ 216-5. Requirements for approval.

The Mayor and Council shall not issue a license unless they find that the following requirements have been met by the application:

- A. The insurance policies as required have been procured and supplied.
- B. The applicant and proposed operators are qualified to operate the wrecker and conduct a wrecker service in the Borough. Permit holders will be required to submit a list of operators and their legal addresses and to keep the Borough Clerk informed of any changes.
- C. The requirements of this chapter and all other laws, statutes and ordinances have been met.
- D. The vehicles have been properly licensed and conform to the state motor vehicle laws.

- E. The wrecker or tow truck to be approved, on inspection, meets the required minimum standards set forth herein.
- F. The applicant has demonstrated sufficient trustworthiness.
- G. The applicant has available space within the Borough of Butler or within 1 1/2 miles of the border of the Borough of Butler for properly accommodating and protecting all disabled motor vehicles to be towed from the place where they are disabled. A letter must be obtained from the Zoning Officer in the municipality where the storage facility is located indicating that such facility complies with municipal zoning laws. **[Amended 3-13-2001 by Ord. No. 2001-9]**
- H. The applicant is able to provide twenty-four-hour-a-day service with a maximum response time of not more than 20 minutes.

§ 216-6. Duration of licenses.

Upon this chapter's becoming effective, applications shall be received during the thirty-day period immediately following and shall be acted upon in accordance with the other provisions of this chapter. Thereafter, applications for an annual license shall be received prior to November 1 for processing prior to January 1.

§ 216-7. Minimum standards for wreckers or tow trucks.

The following shall serve as minimum standards for wreckers:

- A. A wrecker shall be able to handle all makes of passenger cars and small trucks, such as pickups and small panel trucks up to three tons, and must have or be equipped with the following:
 - (1) All wreckers shall be a minimum of one ton according to the manufacturer's specifications and shall have dual rear wheels or the equivalent. **[Amended 6-20-2006 by Ord. No. 2006-18]**
 - (2) A power-takeoff-controlled winch with a minimum cable thickness of 3/8 inch or equivalent.
 - (3) Gross weight equal to the vehicles to be towed, with a minimum of 5,500 pounds.
 - (4) A three-eighths-inch safety chain. The lift chain and the safety chain are not to be attached in any form or manner to the same part of the wrecker.
 - (5) Front and rear hazard flashing lights.
 - (6) A three-hundred-sixty-degree rotating amber beacon light mounted over the cab or an approved light bar.
 - (7) All lights shall be of such candlepower in intensity as to be visible 1/4 mile away.
 - (8) All towing company drivers will carry their business cards and must give one to the owner/driver of the vehicle to be towed.

- (9) All companies will have the company name, address and phone number permanently affixed in letters and numbers on both sides of the wrecker prior to said wrecker being used on any Borough rotation calls. The letters and numbers shall be a minimum of three inches in height.
- (10) The wrecker shall be equipped with sufficient equipment to clean up the debris on the highway. The operators must clean away the debris at the scene. All wreckers shall be equipped with a fire extinguisher.

§ 216-8. Insurance policies.

- A. No wrecker shall be issued a license unless the wrecker has been approved and the following insurance policies or certificates of insurance specifically naming the Borough as an insured party are filed with the Borough Clerk.
 - (1) Garagekeeper's policy: a garagekeeper's legal liability policy covering fire, theft and explosion in the minimum amount of \$100,000 and collision coverage subject to a deductible of \$500, with each accident deemed a separate claim.
 - (2) Garage liability policy: a garage liability policy covering the operation of the applicant's equipment or vehicles for any bodily injury or property damage. This policy shall be in the amount of \$1,000,000.
- B. Each policy required herein must contain an endorsement providing 10 days' notice to the Borough in the event of any material change or cancellation for any cause.
- C. In the event that the policy is changed so as to fail to conform to the above requirements or if any policy of any approved wrecker is canceled for any reason, the Borough Clerk shall notify the person responsible for the policy, and it shall be corrected or reinstated or replaced with a conforming policy within 10 days after the notice is received and before the date of cancellation. If the policy or certificate is not corrected, reinstated or replaced within the required time, the Borough Clerk shall immediately suspend the wrecker's license.

§ 216-9. Display of identification card.

The Borough Clerk shall issue to the person holding a license a card, in such form as may be set by the Borough Clerk, which shall at all times be displayed on the passenger side of the rear window of each wrecker. The card shall bear the name of the owner, the rate of the charges and a notice that, in case of complaint, the complainant may notify the Borough Clerk, giving the license number of the wrecker.

§ 216-10. Rotating call list.

Wreckers licensed to perform towing service under this chapter shall perform on a rotation basis, which rotating list shall be limited to those wreckers having an approved facility. The Chief of Police is hereby authorized to establish a system of rotation in the assignment of wreckers in the area. Wreckers shall be assigned from the rotating list only. No person shall

respond to the scene of any accident except upon notification by the officer in charge of police headquarters or upon request of the driver or owner of the disabled vehicle.

§ 216-11. Service rates. [Amended 5-19-1998 by Ord. No. 1998-18; 3-13-2001 by Ord. No. 2001-9; 6-20-2006 by Ord. No. 2006-16; 11-4-2013 by Ord. No. 2013-18; 1-21-2018 by Ord. No. 2018-1; 3/25/2018 by Ord. No. 2018-3; ~~XX/XX/XXXX~~ by Ord. No. 2020-1]

Charges for transportation, hauling or service of disabled vehicles by an approved wrecker or operator of any approved wrecker shall not exceed the following rates:

A. The towing and storage fee schedule shall be as follows:

(2) The following is the fee schedule for towing services:

- (a) Cars (Light Duty) First mile or less: \$150.00
- (b) Trucks (Medium Duty 10,001 to 26,000 GVW) \$250.00 per hour
- (c) Trucks (Heavy Duty 26,001 and over GVW) \$500.00 per hour
- (d) Each additional mile: \$6.00

(3) Recovery winching (in addition to towing – per truck including driver)

- (a) Light/Medium Duty \$350.00 per hour
- (b) Heavy Duty \$600.00 per hour

(4) The following is the fee schedule for storage services. The fee shall be charged for each 10 x 20 foot space utilized:

- (a) Inside building: \$90. per day.
- (b) Outside storage: \$45. per day.
- (c) Trucks (Dual Wheels)/ Single Axle: \$90.00 per day
- (d) Tractor/Dump Truck/Tractor and Trailer Combo/Trailers: \$125.00 per unit per day
- (e) Buses: \$150.00 per day
- (f) Roll-Off: \$125.00 per day
- (g) Cargo/Accident Debris/Load Storage/Vehicle Components
10' x 20' space \$45.00 per space used per day
- (h) Rental of any Tow Company Supplied Trailer Post Incident: \$500.00 per day

Storage billed per calendar day

B. Mileage rate. The mileage rate shall be calculated based on the total distance traveled from the tow vehicle's base of service to the job site and return by way of the shortest available route. The tow operator will transport the vehicle anywhere in the Borough at the request of the owner/operator.

(1) If the owner/operator requests that the vehicle be transported out of town, the towing service shall receive payment for the additional miles traveled.

(2) On request, towers shall provide this service for a minimum of five miles beyond the Borough line. Towing beyond this point may be refused if service to the Borough could be affected.

C. Additional charges.

- (1) There shall be an administrative charge of \$40.00 for vehicles involved in a motor vehicle accident.
- (2) There shall be a fee of \$90. for window wrap.
- (3) There fees are as follows:
 - (a) Accident Minor Clean-Up and Disposal of Debris: \$ 75.00 per hour
Plus materials used
 - (b) Recovery Supervisor and/or Level III Recovery Specialist: \$225.00 per hour
 - (c) Certified Towing Operators: \$125.00 per hour per person
 - (d) Manual Laborers: \$100.00 per
- (4) There shall be a fee of \$50. For transmission disconnection.
- (5) There shall be a fee of \$75. For after hour vehicle release.
- (6) Specialized Recovery Equipment
 - (a) Rotator Crane Recovery Unit: \$1,200.00 per hour
 - (b) Tractor with Landoll Trailer or Detach Trailer: \$450.00 per hour
 - (c) Tractor Transport Hauler Only: \$250.00 per hour
 - (d) Refrigerated Trailer with Tractor: \$450.00 per hour
 - (e) Box Trailer with Tractor: \$400.00 per hour
 - (f) Air Cushion Unit: \$1,000.00 per hour
 - (g) Light Tower: \$250.00 per hour
 - (h) Pallet Jack: \$200.00 flat rate
 - (i) Rollers: \$200.00 flat rate
 - (j) Any other specialized equipment: \$250.00 per hour
 - (k) Loader/Backhoe/Telescopic Handler/
Bulldozer/Bobcat: \$300.00 each per hour
 - (l) Forklift: \$300.00 per hour
 - (m) Dump Truck/Dump Trailer with
Tractor: \$350.00 per hour
 - (n) Roll Off with Container: \$350.00 per hour plus disposal
 - (o) Recovery Supervisor Vehicle: \$150.00 per hour

- (p) Scene Safety Equipment, Communication Equipment, Traffic Management Equipment, Etc.: \$250.00 per hour per type used
- (q) Recovery Support Vehicle/Trailer Additional Recovery Equipment: \$350.00 per hour

(8)Labor – All Labor Min of 1 Hour

- (a) Accident Minor Clean-Up and Disposal of Debris: \$ 75.00 per hour Plus materials used
- (b) Recovery Supervisor and/or Level III Recovery Specialist: \$225.00 per hour charges limited to 1 per incident
- (c) Certified Towing Operator: \$125.00 per hour per person
- (d) Manual Laborers: \$100.00 per hour

(9)Additional Services

Fuel/Haz-Mat/ Cargo Spills Clean-Up and Disposal

- (a) Hazmat and Trash Recovery Surcharged 10%
- (b) Subcontractor Mark-Up: 10%
- (c) Administrative charge only after 3rd visit to vehicle Cars only: \$50.00
- (d) Administrative Charge Medium/Heavy Truck: \$200.00
- (e) Notification Documentation Fee: \$50.00
- (f) Tarping/Wrapping Vehicle: \$90.00 per car \$250.00 per truck
- (g) Fuel Surcharge Reserved for future need.

D. Special circumstances.

(1) If the owner of an unattended vehicle to be towed appears on the scene, and provided that the vehicle does not need to be towed or impounded, the towing contractor shall make no charge. However, if the vehicle is hooked up to the towing truck, the vehicle shall be released at the scene of impound upon the payment of 50% of the authorized towing charge (decoupling fee).

(2) There shall be no charge for towing, storage or impoundment if it is determined by the Police Chief or his or her designee that such vehicles have been towed, stored or impounded due to an error by the tow truck operator or the Police Department. This determination shall be at the sole discretion of the Police Chief or his or her designee and is binding upon the contractor. The contractor shall make no claims for payment upon the owner of the vehicle, and if payment has already been received, the payment shall be returned.

(3) There shall be no charge for the towing of police vehicles.

§ 216-12. Reports and receipts. [Amended 3-13-2001 by Ord. No. 2001-9; 2-20-2007 by Ord. No. 2007-4]

- A. Every license holder shall give the owner of the vehicle a written receipt for the fee paid, in a form approved by the Chief of Police. Copies of receipts shall be maintained by the license holder for two years.
- B. Every license holder shall file with the Chief of Police a report in a form acceptable to the Chief of Police within 30 days after the end of a rotation. Said report shall contain the following information as a minimum:
 - (1) Identification of the vehicle towed, location of the vehicle towed and destination.
 - (2) The number of calls per month and a breakdown of the charges applied per call.
 - (3) A complete list of all unclaimed vehicles from prior months, including the vehicle identification number and the date of tow.
 - (4) Copies of all written receipts issued to vehicle owners during the rotation period.
- C. Any license plates removed by the contractor shall be returned to the Division of Motor Vehicles; receipts shall then be returned to the Chief of Police.

§ 216-13. Conduct of owners and operators.

A wrecker license hereunder shall be issued subject to the following conditions:

- A. No person shall seek employment by driving his or her wrecker to and fro in a short space in front of any disabled vehicle or by otherwise interfering with the proper and orderly progress of traffic along the public highways.
- B. No person owning or operating a wrecker shall engage in cruising.

- C. No person owning or operating a wrecker licensed under this chapter shall permit or invite loitering within or near the wrecker.
- D. No person shall solicit or attempt to divert prospective patrons of another wrecker nor shall he or she solicit or divert prospective patrons of a given garage in the Borough to another garage.
- E. No person shall solicit, demand or receive from any person any commission or fee except the proper fee for transporting the disabled vehicle in accordance with this Chapter 216.
- F. No person shall pay any gratuity, tip or emolument to any third person not involved in the accident or to any police officer for any information as to the location of any accident or for soliciting the employment of the operator's services nor give any gratuities, fees or other compensation or gifts to any member of the Police Department.
- G. No wrecker which happens to be passing by is permitted to solicit business from any of the drivers involved in the accident. Any wrecker at the scene may be used by the investigator to clear the scene if traffic conditions preclude waiting for the authorized wrecker; however, this may not authorize him or her to tow the vehicle from the scene.

§ 216-14. Records and impoundment rules.

- A. Regular towing service.
 - (1) Every person holding a license shall keep a record of all details of each disabled vehicle towed, serviced or transported, together with full information concerning the service and the fee charged.
 - (2) This record shall indicate the date of towing, the location and the name and address of the owner and/or driver of the disabled vehicle. The record book herein described shall be kept open for inspection at all times by the Chief or any duly authorized representative of the Chief.
- B. Vehicles impounded by the Police Department.
 - (1) All companies on the towing list shall maintain a record regarding all vehicles impounded at the request of the Butler Police Department, for example, abandoned vehicles, recovered stolen vehicles or vehicles held for investigation by the Department. This record shall be made available to any police officer for inspection upon request and shall contain the following information:
 - (a) The date, time, location and name of the wrecker driver who towed the vehicle at the Department's request.
 - (b) The name of the police officer who requested that the vehicle be impounded.
 - (c) The physical location of the vehicle after being towed.

- (d) Identification of the impounded vehicle, to include the make, year, model, vehicle identification number, license number and name of registered owner, if known.
 - (2) A vehicle impounded by the police shall not be released without a written tow order release form authorizing said release.
 - (3) A written record shall be kept or maintained by the towing service indicating the name of the person releasing the vehicle, the type of proof of ownership presented and the name of the person receiving said vehicle.
- C. It shall be the responsibility of the towing company to obtain proper proof of ownership and identification prior to the release of any vehicle. Release of any vehicle to an unauthorized person by the towing company shall result in liability against such company. An owner must obtain a release from the Police Department prior to the vehicle being released by the towing company. **[Amended 6-20-2006 by Ord. No. 2006-18]**

§ 216-15. Suspension and revocation of license.

The Chief of Police may temporarily suspend the license of any license holder who fails to comply with the rules and standards set forth in this chapter if he or she deems it necessary to suspend the license in order to protect the public interest. Any license suspension shall be immediately reported to the Borough Clerk who shall notify the Mayor and Council of the action. The Mayor and Council may continue the suspension, order the suspension to be lifted or revoke the license for good cause after a public hearing.

§ 216-16. Abandoned or unclaimed vehicles.

The Police Department shall be responsible for notifying the owner of an abandoned vehicle towed under this chapter that his or her vehicle has been towed to the impound area. In the event that a towed vehicle is not removed within seven days by the owner, the towing company shall be responsible for notifying the Police Department of said situation. Failure of the contractor to notify the Police Department as stated herein shall limit the storage charge to seven days only. Thereafter, it shall be the obligation of the contractor to contact the owner or operator of a stored vehicle and to furnish proof to the Department that such attempt has been made. Failure to notify the owner or operator shall cause the storage charges to end at 30 days. After an attempt to make contact or if contact is made, storage charges will begin again for another 30 days. This procedure shall be followed until storage fees reach a maximum of 90 days.

§ 216-17. Sale of unclaimed or abandoned vehicles.

- A. The Borough of Butler Police Department shall, at its sole judgment and uncontrolled discretion, arrange for public sale of any vehicle which has been the subject of impoundment, or when the owner has failed to receive the same. Such public sale shall be in accordance with New Jersey State law.

- B. The Borough of Butler will not sell any vehicle without having first received the proper authorization for the sale as required by the New Jersey Division of Motor Vehicles in accordance with state law.
- C. The proceeds from the sale of each vehicle shall be applied to the payment of any towing and storage charges due per said vehicle sold. Any surplus funds per each vehicle shall be disposed of according to law. If the proceeds from such sale of a vehicle are insufficient to pay the accrued towing or service charges for that vehicle, the contractor agrees that there shall be no further liability of the Borough of Butler to pay the same (and any excess amounts which may be due shall be waived).
- D. If no bids are received on a vehicle, then the contractor shall receive title of such vehicle in lieu of any fees.

§ 216-18. Fees.[Amended 6-20-2006 by Ord No. 2006-18; 2-20-2007 by Ord. No. 2007-4]

A nonrefundable fee in the amount of \$150 shall be paid with the filing of the application for a license under this chapter.

Chapter 218

(RESERVED)

[Former Ch. 218, Transient Merchants, adopted as Section 4-4 of the Revised General Ordinances of 1976, as amended, was repealed 12-10-1991 by Section 1 of Ord. No. 1991-18. See now Ch. 91, Canvassers, Solicitors and Peddlers.]

Chapter 223

VEGETATION

§ 223-1. **Certain growth prohibited.**

§ 223-2. **Notice to owners or tenants.**

§ 223-3. **Service of notice.**

§ 223-4. **Compliance with notice.**

§ 223-5. **Failure to comply.**

§ 223-6. **Violations and penalties.**

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Section 3-4 of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Housing standards — See Ch. 136.](#)

[Land use — See Ch. 143.](#)

§ 223-1. **Certain growth prohibited.** [Added 6-7-1982 by Ord. No. 82-5]

It is hereby prohibited for any owner or tenant of lands abutting upon the public highways, streets and avenues of the Borough to permit grass, weeds, hedges, bushes, low hanging branches or other impediments higher than three feet above curb level which shall be a hindrance in or obstruct the view of operations of vehicles using the highways.

§ 223-2. **Notice to owners or tenants.**

The written notice directing the removal of grass, weeds, hedges, bushes, low hanging branches or other impediments abutting upon the public highways, streets and avenues of the Borough shall be prepared by the Superintendent of Public Works over his signature and shall identify the lands abutting on the highways, streets or avenues and shall contain a short statement relating in detail and identifying such grass, weeds, hedges, bushes, low hanging branches or other impediments which are directed to be removed. The notice shall also contain a statement that the violation of the terms of this chapter is punishable by fine.

§ 223-3. **Service of notice.**

The notice may be served upon the owner or owners, tenant or tenants, residents of the Borough in person, or by leaving the same at their homes or places of residence with a member of their family above the age of 14 years. In such case, any such notice may be served upon him personally or mailed to his last known post office address or it may be served upon the occupant of the property, or upon the agent in charge thereof. In case the owner of any such property is unknown or service cannot for any reason be made as above directed, notice thereof shall be published at least once in a newspaper circulating in the Borough, and a copy of the notice shall be posted in a conspicuous place upon the premises.

§ 223-4. Compliance with notice.

The owner or owners, tenant or tenants of land abutting upon the public highways, streets and avenues of the Borough shall remove from the abutting sidewalks or sidelines of such highways, streets and avenues abutting such lands, within 30 days after written notice to remove, all grass, weeds, hedges, bushes, low hanging branches or other impediments higher than three feet above curb level which shall be a hindrance in or obstruct the view of operations of vehicles using the highway.

§ 223-5. Failure to comply.

If the owner or owners, tenant or tenants of land abutting upon the public highways, streets and avenues of the Borough shall neglect or refuse to remove all grass, weeds, hedges, bushes, low hanging branches and other impediments which shall be a hindrance to or obstruct the view of operators of vehicles using the highway from the abutting sidewalks of such highways, streets or avenues abutting such lands within 30 days after service of the written notice to remove the same, as hereinabove provided, such grass, weeds, hedges, bushes, low hanging branches and other impediments may be removed by the direction of the Superintendent of Public Works. After such removal, the Superintendent of Public Works shall certify the costs thereof to the Mayor and Council of the Borough, which shall examine the certificate and, if found correct, shall cause the costs as shown thereon to be charged against the lands abutting on the public highways, streets and avenues, and the amount so charged shall forthwith become a lien upon such lands and shall be assessed and levied upon such lands, the same to bear interest at the same rate as taxes and shall be collected and enforced by the same officer in the same manner as taxes.

§ 223-6. Violations and penalties. [Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89; 4-18-2006 by Ord. No. 2006-7]

Any person, firm, or corporation violating any of the provisions of this chapter shall be subject to such penalties as are provided for in Chapter 230, Violations and Penalties, of the Code of the Borough of Butler.

Chapter 225

VEHICLES AND TRAFFIC

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 § 225-48. **(Reserved)**
 § 225-49. **(Reserved)**
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 § 225-58. **Schedule XXI: Regulation of Private Property.**

[**HISTORY: Adopted by the Mayor and Council of the Borough of Butler 6-19-1979 by Ord. No. 79-7 as Ch. VIII of the Revised General Ordinances of 1976; readopted 10-4-1988 by Ord. No. 27-88. Amendments noted where applicable.**]

GENERAL REFERENCES

[Motorized bicycles — See Ch. 79.](#)

[Taxicabs — See Ch. 213.](#)

ARTICLE I
General Provisions

§ 225-1. Definitions.

Whenever any words and phrases are used in this chapter, the meanings respectively ascribed to them in Subtitle 1 of Title 39 of the Revised Statutes of New Jersey shall be deemed to apply to such words and phrases used herein.

§ 225-2. Repealer.

All former traffic ordinances of the Borough of Butler are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this chapter.

§ 225-3. Severability.

If any part or parts of this chapter are held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter.

§ 225-4. Violations and penalties. [Amended 12-16-1986 by Ord. No. 21-86; 12-18-1990 by Ord. No. 1990-28]

Unless another penalty is expressly provided by New Jersey statute, every person convicted of a violation of a provision of this chapter or any supplement thereto shall be liable to a penalty of not more than \$50 or imprisonment for a term not exceeding 15 days, or both. Violations of any provision of this chapter with regard to parking shall be punishable by a fine of not less than \$10. In addition, state-mandated Automated Traffic System Fund surcharges shall be imposed.

§ 225-5. Vehicular repair prohibited.

No general repair and maintenance work shall be permitted to be undertaken on vehicles located in the streets or along the curb of any streets in the Borough publicly maintained and open to the use of the public for purposes of vehicular traffic, other than simple emergency remedial repairs. Any disabled vehicle requiring more extensive repair shall be removed from the street as soon as possible after such disablement and, if not so removed, may be towed away by the Borough at the owner's expense, and the owner shall be fined under the provisions of this chapter.

**ARTICLE II
Parking**

§ 225-6. Regulations not exclusive.

The provisions of this Article imposing a time limit on parking shall not relieve any person of the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles as set forth in N.J.S.A. 39:4-138, any other New Jersey statute, or as hereinafter provided.

§ 225-7. Overnight parking. [Amended 6-19-1984 by Ord. No. 7-84]

A. Limitations.

- (1) Vehicles in general. No vehicle shall be parked on any street in the Borough between the hours of 2:00 a.m. and 6:00 a.m. during the months of November 1 through April 15, except for Main Street, Kiel Avenue, Bartholdi Avenue, Boonton Avenue and Kakeout Road, where the parking prohibition will be in effect all year.
- (2) Trucks (3/4 ton) parking restriction. No person shall park any truck, bus, trailer or tractor, the gross carrying weight of which exceeds 3/4 ton, upon any street or portions thereof within the Borough between the hours of 2:00 a.m. and 6:00 a.m.

- B. Removal of vehicle; penalty. In addition to the penalties provided by this chapter for the violation thereof, and not in limitation of the same, whenever any member of the Police Department finds a vehicle parked in violation of this subsection, such police officer may move or secure the removal of such vehicle to such garage or other place as may be designated by the Borough Council as a garage or place for the impounding of such vehicles, and the vehicle shall be there retained and impounded until the person owning the vehicle shall pay the reasonable costs of the taking and removing, together with a garage charge of \$10 for each and every day the vehicle is retained and impounded.

§ 225-8. Parking on certain municipally owned lands. [Added 7-15-1980 by Ord. No. 80-15]

No person shall park any vehicle at any time upon the area shaded on the map entitled "Municipally Owned Lands," prepared by Hirth Weidener Associates, L.S., P.P., and dated June 1980, which map is hereby incorporated by reference and is on file in the Borough Clerk's office.

§ 225-9. Parking prohibited at all times.

No person shall park a vehicle at any time upon any of the streets or parts thereof described in Schedule I (§ 225-38), attached to and made a part of this chapter.

§ 225-10. Parking prohibited during certain hours. [Amended 4-6-1981 by Ord. No. 81-1]

No person shall park a vehicle between the hours specified in Schedule II (§ 225-39) of any day, except Sundays and public holidays, upon any of the streets or parts of streets described in said Schedule II, attached to and made a part of this chapter.

§ 225-11. Stopping or standing prohibited.

No person shall stop or stand a vehicle during the times specified in Schedule III (§ 225-40) of any day, except Sundays and public holidays, upon any of the streets or parts of streets described in said Schedule III, attached to and made a part of this chapter.

§ 225-12. Parking time limited. [Amended 4-6-1981 by Ord. No. 81-1; 2-20-2007 by Ord. No. 2007-3]

No person shall park a vehicle for longer than the time limit shown in Schedule IV (§ 225-41) at any time between the hours listed in said Schedule IV of any day, except Sundays and public holidays unless otherwise provided for in § 225-41, upon any of the streets or parts of streets described in said Schedule IV, attached to and made a part of this chapter.

§ 225-12.1. (Reserved) ¹

ARTICLE III
Truck Exclusions

§ 225-13. Trucks over certain weight excluded.

Trucks over the gross weight indicated are hereby excluded from the street or parts of streets described in Schedule V (§ 225-42) except for the pickup and delivery of materials on such streets, said Schedule V being attached to and made a part of this chapter.

ARTICLE IV
One-Way Streets

§ 225-14. One-way streets designated.

The streets or parts of streets described in Schedule VI (§ 225-43), attached to and made a part of this chapter, are hereby designated as one-way streets in the direction indicated.

1. Editor's Note: Former § 225-12.1, Exception for vehicles responding to emergencies, added 9-16-1986 by Ord. No. 17-86, was repealed 3-14-1989 by Ord. No. 9-89.

ARTICLE V
Through Streets; Stop and Yield Intersections

§ 225-15. Through streets designated.

Pursuant to the provisions of N.J.S.A. 39:4-140, the streets or parts of streets described in Schedule VII (§ 225-44), attached to and made a part of this chapter, are hereby designated as through streets. Stop signs shall be installed on the near right side of each street intersecting the through street except where yield signs are provided for in the designations.

§ 225-16. Stop intersections designated.

Pursuant to the provisions of N.J.S.A. 39:4-140, the intersections described in Schedule VIII (§ 225-45), attached to and made a part of this chapter, are hereby designated as stop intersections. Stop signs shall be installed as provided therein.

§ 225-17. Yield intersections designated.

Pursuant to the provisions of N.J.S.A. 39:4-140, the intersections described in Schedule IX (§ 225-46), attached to and made a part of this chapter, are hereby designated as yield intersections. Yield signs shall be installed as provided therein.

ARTICLE VI
Special Zones and Areas

§ 225-18. Parking prohibited in special areas.

Parking shall be prohibited in the areas adjacent to the following structures:

- A. 1200 Route 23 Building.
 - (1) That area consisting of the entire length, 150 feet, of the front of the premises known as 1200 Route 23, and extending from the building a distance of 20 feet.
 - (2) That area consisting of the entire length, 60 feet, of both the northerly and southerly sides of the premises, and extending 20 feet from the building.
 - (3) That area consisting of the length, 20 feet, of the rear entrance to the structure, and extending 20 feet from the building.
- B. Butler Ridge Apartments. That area consisting of the entire length, 552 feet, and the entire width, 32 feet, of the main roadway extending from Route 23 to the rear of the apartment complex.
- C. Butler Plaza. **[Added 7-15-1980 by Ord. No. 80-10]**
 - (1) That area consisting of the entire length, 171 feet, of the front of the premises presently occupied as a retail food market in the shopping center known as "Butler Plaza," Route 23, in the Borough of Butler, and extending from the building a distance of 20 feet.

- (2) That area beginning at a point distant 39 feet six inches from the southerly side of said retail food store and running thence 95 feet along the remaining length of the front of the premises, and extending from the building a distance of 20 feet, with the remaining distance between the southerly end of said retail food store and the beginning point of the zone described herein to be utilized for parking areas for vehicles.
 - (3) That area consisting of the entire length, 222 feet, of the rear of the structure presently occupied as a bowling alley, and extending 20 feet from the building; and that area consisting of the length, 30 feet, of the front entrance to said structure and extending 20 feet from the building.
- D. Butler Bowl. That area consisting of the entire length, 222 feet, of the rear of the structure presently occupied as a bowling alley, and extending 20 feet from the building; and that area consisting of the length, 30 feet, of the front entrance to said structure, and extending 20 feet from the building. **[Added 5-17-1983 by Ord. No. 4-83]**
- E. Woodland Acres Apartment Complex, main entrance. That area consisting of the entire front of the structure, 60 feet by 18 feet, and the side by the fire escape, 30 feet by 18 feet, to be designated as a no-parking fire zone. **[Added 7-21-1987 by Ord. No. 13-87; amended 3-14-1989 by Ord. No. 9-89]**
- F. Aaron Decker School. Between the hours of 7:00 a.m. and 3:00 p.m. in the circular driveway in front of Aaron Decker School. **[Added 7-19-1994 by Ord. No. 1994-10]**

§ 225-18.1. Parking restricted in special areas. [Added 6-21-1983 by Ord. No. 13-83]

- A. The parking of vehicles in and around the Carey Avenue Firehouse shall be limited and restricted as follows:
- (1) Vehicles, when permitted to be parked at the Carey Avenue Firehouse, shall only be parked within the areas specifically provided for parking and not within areas reserved for ingress and egress of fire lanes.
 - (2) There shall be no parking of any vehicles at the Carey Avenue Firehouse between the hours of 3:00 a.m. and 6:00 a.m., except vehicles driven by members of the fire companies of the Borough of Butler, provided that the vehicles have been parked as the result of firemen reporting for duty to fight a fire or some related activity.
 - (3) No person other than a member of the fire companies of the Borough of Butler shall park a vehicle at any time within those parking stalls designated for firemen only and striped in yellow.
 - (4) Persons other than members of the fire companies of the Borough of Butler may park in the parking stalls not designated for firemen only and striped in white during those times when the drivers of said vehicles are participating in or attending functions at the Carey Avenue Firehouse, only.

- B. Every person convicted of a violation of the provisions of this section or any supplement thereto shall be liable for a penalty of not more than \$50.
- C. The parking of vehicles in and around the Butler Police Headquarters shall be limited and restricted as follows: **[Added 7-21-1998 by Ord. No. 1998-28]**
- (1) Visitor parking "for police business only" in parking stalls marked as same located on the north side of the main parking lot running for 65 feet from High Street east to the bridge leading into the park.
 - (2) There shall be no public or visitor parking in parking stalls marked "police vehicles only" which are located in front of the garage bays, along with the two stalls marked "communication specialist" which are located on the east and the south portion of the main lot.
 - (3) There shall be no visitor or public parking in the center apron area of the lot.

§ 225-18.2. Handicapped parking. [Added 11-18-1985 by Ord. No. 23-85; amended 2-14-1989 by Ord. No. 6-89; amended 2/16/2021 by Ord. No. 2021-1; amended 3-15-2022 by Ord. No. 2022-02]

- A. There are hereby established the following handicapped parking spaces which shall be utilized only by those persons to whom a handicapped permit has been issued by the Department of Motor Vehicles:
- (1) On Main Street, a handicapped parking space located on the north side of Main Street approximately 318 feet from Short Street.
 - (2) On West Belleview Avenue, two handicapped spaces located on the south side of West Belleview Avenue adjacent to Tax Lot 26, Block 40, on the Tax Maps of the Borough of Butler, approximately 560 feet from Gifford Street.
 - (3) On Cook Street, one handicapped parking space located on the west side of Cook Street in front of Lot29, Block 10 as shown on the Tax Map of the Borough of Butler.
 - (4) On Arch Street, a handicapped parking space located on the westerly side in front of Block 16, Lot 16.01 on the Tax Map of the Borough of Butler, also known as 103 Arch Street.
- B. It shall be unlawful for any unauthorized vehicle to park in a space designated for handicapped parking on any private or public property within the Borough of Butler. **[Added 10-9-1990 by Ord. No. 1990-21²]**
- C. Any person violating the terms of this section shall be subject to a fine of \$250 for a first offense. For any subsequent violation of this section, a fine of at least \$250 and up to 90 days of community service shall be imposed. **[Added 10-9-1990 by Ord. No. 1990-21³ ; amended 10-7-2003 by Ord. No. 2003-23]**

§ 225-18.3. (Reserved) ⁴

2. Editor's Note: This ordinance also repealed former § 225-18.2B concerning violations and marking of spaces.
3. Editor's Note: This ordinance also repealed former § 225-18.2C concerning violations and marking of spaces.
4. Editor's Note: Former § 225-18.3, Museum parking lot, added 12-17-1985 by Ord. No. 22-85, was repealed 7-21-1992 by Ord. No. 1992-13. For current provisions, see § 225-23.

§ 225-19. Loading zones designated.

The locations described in Schedule X (§ 225-47), attached to and made a part of this chapter, are hereby designated as loading zones.

§ 225-19.1. Temporary loading zones. [Added 1-21-1986 by Ord. No. 1-86]

- A. There are hereby established two loading zones, which loading zones are located as follows: beginning at a point 100 feet in an easterly direction on Main Street, from the intersection of Main Street and Manning Avenue, and beginning at a point 440 feet in an easterly direction on Main Street, from the intersection of Main Street and Manning Avenue, which loading zones encompass an area normally utilized for parking, but which shall be treated as loading zones for utilization by trucks when appropriate signs are posted in the area giving clear notice that the area is about to be utilized or is being utilized as a loading zone for commercial vehicles.
- B. During those periods of time that the area described above is posted with signs indicating that it is to be used for a loading zone, no one shall park a vehicle in that area or use the area other than for a loading zone for commercial vehicles.
- C. Any person convicted of utilizing the above-described loading zone when properly posted as a loading zone for uses other than a loading zone shall be fined the sum of \$50.

§ 225-20. (Reserved) ⁵**§ 225-21. (Reserved) ⁶**

ARTICLE VII
Municipal Parking Lots

§ 225-22. Restrictions.

- A. Type of vehicle prohibited. Parking of all trucks over two tons gross weight is hereby prohibited in the municipal parking lots of the Borough.
- B. Repair and maintenance work prohibited. No general repair and maintenance work shall be permitted to be undertaken on vehicles parked in the municipal parking lots of the Borough other than simple emergency remedial repairs. Any disabled vehicle requiring more extensive repair shall be removed from the lot within two hours of such disablement and, if not so removed, may be towed away by the Borough at the owner's expense, and the owner shall be fined under the provisions of § 225-4.

5. Editor's Note: Former § 225-20, Taxi stands designated, was repealed 2-20-2007 by Ord. No. 2007-3.

6. Editor's Note: Former § 225-21, Bus stops designated, was repealed 10-18-2005 by Ord. No. 2005-23.

§ 225-23. Parking limit on certain lots. [Amended 6-2-1980 by Ord. No. 80-8; 7-21-1992 by Ord. No. 1992-13; 10-16-2001 by Ord. No. 2001-19; 2-19-2002 by Ord. No. 2002-5; 2-24-2002 by Ord. No. 2007-1; 5-15-2007 by Ord. No. 2007-10; 2-19-2008 by Ord. No. 2008-2]]

- A. Harmon lot. Parking at the Harmon parking lot located near the intersection of Boonton Avenue and Carey Avenue shall be limited as follows:
- (1) Spaces designated as "permit parking only" shall be limited to parking by vehicles which have obtained a permit from the Borough Clerk and shall include permitted overnight parking.
 - (2) All other parking shall be limited to 6:00 a.m. to 11:00 p.m., and there shall be no overnight parking.
- B. Permit parking at the Harmon lot. The following provisions apply to permit parking in the Harmon lot:
- (1) Fees for a permit to park in the lot will be issued as available for an annual fee of \$600 per person or a six-month permit for \$300. The permits will be available in six-month increments beginning January 1 of each calendar year.
 - (2) Permit parking shall be available for noncommercial vehicles only.
 - (3) Permit parking shall be limited to residents of Butler.
 - (4) There shall be no more than two permits permitted per family.
 - (5) Permits shall be nonrefundable and nontransferable.
 - (6) The Borough Administrator, with the consent of the Borough Council, shall determine on an annual basis the total number of spaces which shall be designated for permit parking.
 - (7) Permit parking shall be prohibited during such times when snow plowing on the lot is necessary or when parking lot maintenance is required.
 - (8) Each application must include all applicant information and vehicle identification.

ARTICLE VIII

Turn Prohibitions and Lane Reservations

§ 225-24. U-turns.

No person shall make a U-turn on any of the streets or parts of streets described in Schedule XIII (§ 225-50), attached to and made a part of this chapter.

§ 225-25. Turns at intersections.

No person shall make a turn of the kind designated (left, right, all) at any of the locations described in Schedule XIV (§ 225-51), attached to and made a part of this chapter.

§ 225-26. Prohibited right turns on red signal.

No person shall make a right turn when facing a steady red signal (stop indication) at any of the locations described in Schedule XV (§ 225-52), attached to and made a part of this chapter, whenever official signs are present prohibiting such turn.

§ 225-27. Lane use reservations.

The lane locations described in Schedule WI (§ 225-53), attached to and made a part of this chapter, are designated as lane use reservations and traffic shall move only as indicated.

ARTICLE IX

Emergency No Parking**§ 225-28. Designation of snow emergency no-parking areas.**

- A. Whenever snow has fallen and the accumulation is such that it covers the street or highway, no vehicle shall be parked on either side of any of the streets or parts thereof described in Schedule XVII (§ 225-54), attached to and made a part of this chapter.
- B. The above parking prohibitions shall remain in effect after the snow has ceased until the streets have been plowed sufficiently and to the extent that parking will not interfere with the normal flow of traffic.

§ 225-29. Posting of signs.

- A. Upon the declaration of an emergency, there shall be no parking upon streets or sections of streets where temporary emergency no-parking signs are displayed. The Chief of Police or, in his absence, the ranking police officer, is authorized to declare an emergency and to direct the posting of emergency no-parking signs when weather conditions, accidents, fires, public celebrations or such other situations or occasions dictate or require the avoidance of hazards or other conditions which interfere with the free flow of traffic.
- B. Notification that emergency no-parking signs are being or will be posted shall be given to the operator or owner of any vehicle which has been parked prior to the posting of the signs.

§ 225-30. Removal of vehicles.

Any unoccupied vehicle parked or standing in violation of this Article shall be deemed a nuisance and a menace to the safe and proper regulation of traffic and any police officer may provide for the removal of such vehicle. The owner shall pay the reasonable costs of removal and storage which may result from such removal before regaining possession of the vehicle.

§ 225-31. Effectiveness of article.

The effectiveness of this article is contingent upon signs being erected as required by law.

ARTICLE X
Speed Limits

§ 225-32. Limits established.

The speed limit for both directions of traffic along the streets or parts thereof described in Schedule XVIII (§ 225-55), attached to and made a part of this chapter, is hereby established at the rate of speed indicated.

§ 225-33. Posting of signs.

Regulatory and warning signs shall be erected and maintained to effect the above-designated speed limits as authorized by the Department of Transportation.

§ 225-33.1. Low-speed vehicles. [Added 5-16-2006 by Ord. No. 2006-15]

A. Definitions. Unless specifically provided, the following words and terms shall be construed and defined as follows:

LOW-SPEED VEHICLE — A motor vehicle:

- (1) That is four-wheeled;
 - (2) Whose speed attainable in 1.6 km (one mile) is more than 32 kilometers per hour (20 miles per hour) and not more than 40 kilometers per hour (25 miles per hour) on a paved level surface; and
 - (3) Whose GVWR is less than 1,134 kilograms (2,500 pounds).
- B. It shall be a violation of this chapter to operate a low-speed vehicle upon any public road or highway under the jurisdiction of the Borough of Butler.

ARTICLE XI
Traffic Control Signals

§ 225-34. Traffic signals established.

Traffic control signals shall be installed and operated at the intersection of those streets described in Schedule XIX (§ 225-56), attached to and made a part of this chapter.

§ 225-35. Installation of signals.

The traffic signal installation shall be in accordance with the provisions of An Act Concerning Motor Vehicles and Traffic Regulations, Subtitle 1 of Title 39 of the Revised Statutes, shall

conform to the design and shall be maintained in operation as authorized by the Department of Transportation of the State of New Jersey.

ARTICLE XII
No-Passing Zones

§ 225-36. No-passing zones established.

No-passing zones are hereby established and maintained along those streets or parts of streets described in Schedule XX (§ 225-57), attached to and made a part of this chapter, as authorized by the New Jersey Department of Transportation in accordance with the sketch dated and numbered as indicated.

ARTICLE XIII
Regulation of Private Property

§ 225-37. Application of Subtitle 1 of Title 39 to private property.

- A. Pursuant to N.J.S.A. 39:5A-1, the Motor Vehicle and Traffic Regulations of Subtitle 1 of Title 39 of the New Jersey Statutes shall apply to the private properties listed in Schedule XXI (§ 225-58), attached to and made a part of this chapter.
- B. Meadtown Shopping Center. **[Added 3-4-1986 by Ord. No. 3-86⁷]**
- (1) Upon the placing of the notice hereinafter described, no person shall stand or park any vehicle on the lands or premises commonly known as the "Meadtown Shopping Center" in the Borough of Butler without the permission of the owner, occupant, lessee or licensee thereof. Such notice shall consist of a sign not less than 18 inches by 24 inches upon which there shall be written the words "Three-Hour Parking for Customers Only," together with a statement that parking on said premises without the permission of the owner or occupant constitutes a violation of this section.
 - (2) Said sign shall be posted upon said land or premises by the owner or occupant, lessee or licensee, and, upon such posting, the provisions of this section shall apply thereto.
- C. Butler Ridge Apartment Complex. **[Added 4-12-1994 by Ord. No. 1994-4]**
- (1) All vehicles must park only in designated areas and between the lines provided.
 - (2) Handicapped parking. All stalls shall be 12 feet wide as shown on the attached site plan and signed with R7-8 (reserved parking sign and penalty plat) in the designated parking areas for persons who have been issued the handicapped parking permits by the Division of Motor Vehicles.

7. **Editor's Note:** This ordinance also provided that it shall take effect as provided by law and upon the approval thereof by the Commissioner of Transportation of the State of New Jersey.

- (3) Through street. The following streets or parts of streets are hereby designated as through streets. Stop signs shall be installed on the near right side of each street intersecting the through street, except where yield signs have been provided for in the designation:

Name of Street	Limits
Center Court	Entire length
Edgemere Court	Entire length

- (4) Speed limits.
 - (a) The speed limits for both directions of traffic in the parking lots shall be 15 miles per hour.
 - (b) The speed limits for both directions of travel on the following roads are:

Name of Street	Speed Limit (mph)	Location
All courts	15	Entire length

- (c) Regulatory and warning signs shall be erected and maintained to effect the above designated speed limits authorized by the Department of Transportation.
- (5) Tow-away. Any vehicle parked or standing as to obstruct or impede normal flow of traffic, block entrances or exitways, loading zones, oil fills, any grass area, pedestrian walkway or present in any way a safety or traffic hazard may be removed by towing the vehicle at the owner's or operator's expense.
- (6) Restricted parking. No person shall stop or stand a vehicle any time upon any of the streets or parts of streets described:

Name of Street	Side	Hours	Location
Center Court	Both	All	Entire length
Edgemere Court	Both	All	Entire length

- (7) All signs, posts or other necessary materials shall be installed and paid for by the applicant. Work shall be checked by the Police Department to ensure installations meet state and federal specifications, and all signing shall conform to the current Manual on Uniform Traffic Control Devices.
- (8) Unless another penalty is expressly provided by New Jersey State statute, every person convicted of a violation of this subsection or any supplement thereto shall be liable to a penalty of not more than \$50 or imprisonment for a term not exceeding 15 days, or both.

- (9) Effect of regulations. If any part of this regulation is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of the regulation.

D. Cambridge Heights. [Added 10-18-2005 by Ord. No. 2005-22]

- (1) General parking.
 - (a) All vehicles must park in designated areas and between the lines provided.
 - (b) No person shall stop or stand a vehicle upon any of the streets or parts of streets described below, except in areas covered by other parking restrictions.

Name of Street	Sides	Hours	Location
All roads and aisles	Both	All	As indicated on the site plan ⁸

- (c) Handicapped parking. All stalls shall be 12 feet wide as shown on the attached site plan⁹ and signed with the R7-8 and R7-8P (Reserved Parking Sign and Penalty Plate), in the designated parking areas for persons who have been issued a handicapped parking permit by the Motor Vehicle Commission.

(2) Through streets and stop intersections.

- (a) Through streets. The following streets or parts of streets are hereby designated as through streets. Stop signs shall be installed on the near-right side of each street intersecting the through street except where yield signs are provided for in the designation.

Name of Street	Limits
Cambridge Drive	Entire length

- (b) Stop intersections. The following described intersections are hereby designated as stop intersections. Stop signs shall be installed as provided therein.

Intersection	Stop Sign On
Exit "A" and Maple Lake Road	Exit "A"

- (3) One-way streets. The following described streets or parts of streets are hereby designated as one-way streets in the direction indicated.

8. Editor's Note: The site plan is on file in the Borough offices.

9. Editor's Note: The site plan is on file in the Borough offices.

Name of Street	Direction	Limits
Exit "A"	West	Entire length

(4) Speed limits.

(a) The speed limit for both directions of travel on the following roadways are:

Name of Roadway	Speed Limit (mph)	Limits
All roads and aisles	15	Entire length

(b) Regulatory and warning signs shall be erected and maintained to effect the above-designated speed limits authorized by the Department of Transportation.

(5) Tow-away zones. Any vehicle parked or standing as to obstruct or impede a normal flow of traffic, block entrances or exitways, loading zones, oil fills, any grassy area pedestrian walkway, or present in any way a safety or traffic hazard may be removed by towing the vehicle at the owner's or operator's expense.

(6) Loading zone(s). The locations described are hereby designated as loading zones. No person shall park a vehicle in said location during the times indicated other than for the loading or unloading of goods and materials.

Name of Street	Sides	Hours	Location
Cambridge Drive	Both	All	As indicated on the site plan ¹⁰

(7) Authorized vehicles only. The following streets or parts of streets shall be designated as use for authorized vehicles only. No vehicle other than an authorized vehicle shall enter upon the below roadway.

Name of Street	Limits
Winthrop Road	Between Lakeside Avenue and Terrace Lake Drive

(8) All signs, posts, or other necessary materials shall be installed and paid for by the applicant. All signing shall conform to the current Manual on Uniform Traffic Control Devices, pursuant to N.J.S.A. 39:4-198 and N.J.S.A. 39:4-183.27.

(9) Unless another penalty is expressly provided for by New Jersey Statute, every person convicted of a violation of this subsection or any supplement thereto shall

10. Editor's Note: The site plan is on file in the Borough offices.

be subject to a penalty of not more than \$50 or imprisonment for a term not exceeding 15 days, or both.

ARTICLE XIV

Schedules

§ 225-38. Schedule I: No Parking.

In accordance with the provisions of § 225-9, no person shall park a vehicle at any time upon any of the following described streets or parts of streets:

Name of Street	Side	Location
Ace Road [Added 4-13-1993 by Ord. No. 1993-6]	Both	Entire length
Argonne Road [Added 5-18-2010 by Ord. No.2010-3]	Both	Entire Length
Bartholdi Avenue [Added 7-15-1986 by Ord. No. 14-86]	West	From the intersection of Washington Avenue and Bartholdi Avenue 210 feet to telephone pole No. BMP616
Boonton Avenue	Both	From Carey Avenue to West Belleview Avenue
Boonton Avenue	Both	From Hasbrouck Avenue to Valley Road
Boonton Avenue	Both	From 200 feet south of Route 23 to 200 feet north of Route 23
Boonton Avenue [Added 7-15-1986 by Ord. No. 14-86]	East	From the intersection of Hasbrouck Avenue and Boonton Avenue to the intersection of Belleview Avenue and Boonton Avenue
Boonton Avenue	East	From Main Street south for 170 feet
Boonton Avenue	West	From 65 feet south of Kiel Avenue to Carey Avenue
Carey Avenue	North	From Boonton Avenue to Robert Street
Cook Street [Added 10-21-1997 by Ord. No. 1997-23]	East	From Boonton Avenue to Belleview Avenue for a distance of 390 feet
Decker Road [Added 5-12-1992 by Ord. No. 1992-6]	Northeast	From Debow Terrace to the Nire Building driveway, approximately 900 feet
Decker Road [Added 5-20-2008 by Ord. No. 2008-5; Amended 11-17-2008by Ord. No. 2008-15]	Northeast	Beginning at the exit of the Aaron Decker School running west 120.
Decker Road [Added 4-6-1981 by Ord. No. 81-1]	West	From Leonard Road to driveway exit of Aaron Decker School parking lot
Elm Street [Added 10-21-1997 by Ord. No. 1997-23]	South	From Beech Street West for a distance of 145 feet
Homestead Avenue [Added 10-21-1997 by Ord. No. 1997-23]	East	From Kiel Avenue to end of Homestead Avenue for a distance of 550 feet

Name of Street	Side	Location
John Street [Added 4-6-1981 by Ord. No. 81-1]	East	Entire length
High Street [Added 1-19-2010 by Ord. No. 2010-1]	North	From Robert Street to Park Place (a distance of 596 feet)
Kiel Avenue	Both	From Boonton Avenue west for 165 feet
Kiel Avenue [Added 4-13-1993 by Ord. No. 1993-6]	North	From the intersection of Whitteck Street and Kiel Avenue 75 feet in both the easterly and westerly directions
Kiel Avenue [Added 7-15-1986 by Ord. No. 14-86]	Northwest	From the intersection of Maple Court and Kiel Avenue 575 feet to the intersection of Boonton Avenue and Kiel Avenue
Lafayette Avenue [Added 8-21-2001 by Ord. No. 2001-20]	South	East of Bartholdi Avenue
Lincoln Road [Added 6-19-2007 by Ord. No. 2007-16]	Both	250 feet in a westerly direction from the intersection of Lincoln Road and Route 23
Mabey Lane	South	From Bartholdi Avenue to Boonton Avenue
Mabey Lane [Added 7-19-1994 by Ord. No. 1994-10]	South	554 feet from the intersection of Bartholdi Avenue to the east curb on Pearl Place
Main Street [Amended 5-7-1984 by Ord. No. 6-84]	North	From 290 feet east of Short Street east for 813 feet
Main Street [Amended 5-7-1984 by Ord. No. 6-84]	South	From Park Place east for 1,182 feet
Maple Lake Road [Added 1-17-2006 by Ord. No. 2006-1]	Both	Beginning at the common municipal boundary line between the Borough of Kinnelon and the Borough of Butler and running in a northerly direction for a distance of approximately 2,028 feet along the center line of Maple Lake Road, a curbed roadway of varying pavement width, and ending at the intersection of Maple Lake Road with the Paterson Hamburg Turnpike, shall be designated as a no-parking zone along its entire length
Morse Avenue [Added 5-17-2005 by Ord. No. 2005-6]	Both	No parking on either side of Morse Avenue from its projected intersection at Route 23 N and continuing northeasterly down Morse Avenue approximately 550 feet to the intersection with the southerly lot line of Lot 39 in Block 78

Name of Street	Side	Location
Morse Avenue	Both	Within 25 feet of the driveway entrance to the Tri-Boro First Aid Squad building and on the side opposite the entrance to the building, within 75 feet of the entrance
North Western Avenue [Added 10-21-1997 by Ord. No. 1997-23]	East, south and west	From Kiel Avenue to Kiel Avenue for a distance of 1,690 feet
Orchard Street [Added 10-21-1997 by Ord. No. 1997-23]	South	From Spring Street to Roosevelt Avenue for a distance of 330 feet
Outlook Street [Added 10-21-1997 by Ord. No. 1997-23]	North	From Cascade Way to Greenwood Avenue for a distance of 550 feet
Plane Street	Both	From Short Street east for 50 feet
Plane Street [Added 7-16-1991 by Ord. No. 1991-5]	East	Between the driveway of 17 Plane Street and 40 Third Street
Smith Street [Added 10-21-1997 by Ord. No. 1997-23]	South	From Roosevelt Avenue to end of Smith Street for a distance of 500 feet
Spring Street [Added 10-21-1997 by Ord. No. 1997-23]	West	From Kiel Avenue to Smith Street for a distance of 1,100 feet
Terrace Avenue [Added 10-3-1983 by Ord. No. 18-83]	South	From Holly Court to Lakeside Avenue
Valley Road [Added 2-14-1989 by Ord. No. 7-89]	North	From a point 348 feet from Cedar Street a distance of 80 feet
Valley Road [Added 7-19-1994 by Ord. No. 1994-10]	South	From Boonton Avenue to Grace Valley Road
Valley Road [Added 2-14-1989 by Ord. No. 7-89]	South	From a point 470 feet from Grace Valley Road a distance of 92 feet
Valley Road [Added 6/16/2009 by Ord. No. 2009-3]	South	Beginning at the intersection with Roosevelt Avenue to Route 23.
VanHouten Avenue [Added 10-21-1997 by Ord. No. 1997-23]	West	From Terrace Avenue to end of VanHouten Avenue for a distance of 630 feet
Washington Street [Added 6-17-2003 by Ord. No. 2003-14]	South	Entire length
Whittek Street [Added 4-13-1993 by Ord. No. 1993-6]	East	From the intersection of Kiel Avenue and Whittek Street a distance of 75 feet
Whittek Street [Added 2-14-1989 by Ord. No. 7-89]	West	From Kiel Avenue for its entire length

§ 225-39. Schedule II: No Parking Certain Hours. [Amended 4-6-1981 by Ord. No. 81-1; Amended 3-17-2020 by Ord. No. 2020-2]

In accordance with the provisions of § 225-10, no person shall park a vehicle between the hours listed upon any of the following described streets or parts of streets:

Name of Street	Side	Hours/Days	Location
Bartholdi Avenue	East	7:30 a.m. to 9:00 pm	From Bellevue Avenue
Hillcrest Avenue [Added 3-17-2020 by Ord. No. 2020-2]	Both	Monday – Friday 9:00 a.m. to 5:00 pm	From the Intersection with Route 23 North to a point 400 feet in the Northerly direction along Hillcrest Avenue
Kiel Avenue	South	a.m., 2:00 p.m. to 3:30 p.m./school days	Hasbrouck Avenue
	East	7:00 a.m. to 7:00 p.m.	From 97 feet east of Maple Court to 78 feet west of Maple Court
Lakeside Avenue [Added 10-3-1983 by Ord. No. 18-83; amended 8-4-2003 by Ord. No. 2003-20]		All/All	From Terrace Avenue to Hamburg Turnpike
Park Place	East	4:00 p.m. to 7:00 p.m./Mon.-Sat.; 8:00 a.m. to 1:00 p.m./Sun. and holidays	From High Street to Main Street
Pearl Place	Both	8:00 a.m. to 4:00 p.m./ school days	From Mabey Lane to Hasbrouck Avenue
Terrace Avenue [Added 10-3-1983 by Ord. No. 18-83]	North	8:00 a.m. to 8:00 p.m./from May 25 to September 15	From Holly Court to Lakeside Avenue

§ 225-40. Schedule III: No Stopping or Standing.

In accordance with the provisions of § 225-11, no person shall stop or stand a vehicle between the times specified upon any of the following described streets or parts of streets:

Name of Street	Side	Hours/Days	Location
Decker Road [Added 7-19-1994 by Ord. No. 1994-10]	West	All times	From the southerly curbline of of the Butler Plaza shopping center entrance to a point 660 feet southerly therefrom to where the Decker Road curbline meets the Kiel Avenue curbline
Decker Road [Added 7-19-1994 by Ord. No. 1994-10]	West and North	8:00 a.m. to 4:00 p.m./Mon.-Fri.	From the northerly curbline of the Butler Plaza shopping center entrance to a point 900 feet northerly and easterly therefrom to the point where the Decker Road curbline is met by the easterly school property line

Name of Street	Side	Hours/Days	Location
Main Street [Added 12-18-1979 by Ord. No. 79-20]	East	All times	From Park Place east for 205 feet

§ 225-41. Schedule IV: Time Limit Parking. [Amended 4-6-1981 by Ord. No. 81-1]

In accordance with the provisions of § 225-12, no person shall park a vehicle for longer than the time limit shown upon any of the following streets or parts of streets:

Name of Street	Side	Time Limit; Hours/Days	Location
Arch Street	Both	1 hour; 7:00 a.m. to 7:00 p.m.	From Main Street north for 800 feet
Bartholdi Avenue	Both	1 hour; 8:00 a.m. to 4:00 p.m., school days	From Carey Avenue to Belleview Avenue
Bartholdi Avenue	West	1 hour; 8:00 a.m. to 4:00 p.m., school days	From Belleview Avenue to Mabey Lane
Belleview Avenue	Both	1 hour; 8:00 a.m. to 4:00 p.m., school days	From Bartholdi Avenue to Boonton Avenue
Belleview Avenue [Amended 6-19-1984 by Ord. No. 7-84]	North	1 hour; 8:00 a.m. to 4:00 p.m., school days	From Bartholdi Avenue to Pearl Place
Belleview Avenue [Added 2-13-1990 by Ord. No. 1990-3]	South	1 hour; 8:00 a.m. to 4:00 p.m., school days	From Pearl Place to Myrtle Avenue
Boonton Avenue	Both	1 hour; 7:00 a.m. to 7:00 p.m.	From Kiel Avenue to Brook Street
Butler Place	Both	1 hour; 8:00 a.m. to 4:00 p.m., school days	From Pearl Place to Myrtle Avenue
Carey Avenue [Amended 1-19-2010 by Ord. No. 2010-1]	Both	1 hour; 7:00 a.m. to 7:00 p.m.	Carey Avenue 381 ft. from Boonton Ave. toward Bartholdi Avenue.
Hasbrouck Avenue [Amended 6-19-1984 by Ord. No. 7-84]	South	1 hour; 8:00 a.m. to 4:00 p.m., school days	Entire length
High Street	Both	1 hour; 7:00 a.m. to 7:00 p.m.	From Boonton Avenue to John Street

Name of Street	Side	Time Limit; Hours/Days	Location
John Street	West	1 hour; 7:00 a.m. to 7:00 p.m.	Entire length
Kiel Avenue	North	2 hours; 7:00 a.m. to 7:00 p.m.	From 165 feet east of Boonton Avenue to Maple Court
Kiel Avenue	North	1 hour; 7:00 a.m. to 7:00 p.m.	From Maple Court to Gifford Street
Kiel Avenue	South	1 hour; 7:00 a.m. to 7:00 p.m.	From 165 feet east of Boonton Avenue to Gifford Street
Main Street [Amended 2-20-2007 by Ord. No. 2007-3]	Both	2 hours; 7:00 a.m. to 7:00 p.m., including Sundays and public holidays	Entire length
Manning Avenue	Both	1 hour; 7:00 a.m. to 7:00 p.m.	Entire length
Park Place	East	2 hours; 7:00 a.m. to 4:00 p.m.	From High Street to Main Street
Park Place	West	1 hour; 7:00 a.m. to 7:00 p.m.	From Main Street to Kiel Avenue and High Street
Pearl Place [Amended 6-19-1984 by Ord. No. 7-84; 7-16-2002 by Ord. No. 2002-34]	East	1 hour; 8:00 a.m. to 4:00 p.m., school days	From Belleview Avenue to Hasbrouck Avenue
Plane Street	Both	1 hour; 7:00 a.m. to 7:00 p.m.	Entire length
Short Street	Both	1 hour; 7:00 a.m. to 7:00 p.m.	Entire length
West Belleview Avenue	Both	1 hour; 7:00 a.m. to 7:00 p.m.	From 200 feet west of Boonton Avenue to 130 feet east of Boonton Avenue
Whittek Street [Amended 4-13-1993 by Ord. No. 1993-6]	East	1 hour; 7:00 a.m. to 7:00 p.m.	From a point 75 feet from the intersection of Kiel Avenue and Whittek Street through the remainder of Whittek Street

§ 225-42. Schedule V: Trucks Over Certain Weight Excluded. [Amended 9-18-1984 by Ord. No. 17-84]

In accordance with the provisions of § 225-13, trucks over the indicated gross weight are hereby excluded from the following described streets or parts of streets, except for the pickup and delivery of materials on such streets:

Name of Street	Weight Limit (tons)	Location
Bartholdi Avenue	4	Entire length
Bellevue Avenue [Added 12-17-1996 by Ord. No. 1996-13; amended 4-15-1997 by Ord. No. 1997-5]	4	From Bartholdi Avenue to Morse Avenue
Carey Avenue	4	From Robert Street to end
Cascade Way [Added 2-14-1989 by Ord. No. 4-89]	4	Entire length from Route 23 to Borough of Kinnelon boundary line
Dean Road [Added 3-4-1986 by Ord. No. 4-86; amended 6-2-1987 by Ord. No. 8-87 ¹¹]	4	From Boonton Avenue to Siek Road within the Borough of Butler towards Cutlass Road in the Borough of Kinnelon
Decker Road [Added 5-12-1992 by Ord. No. 1992-6]	4	Entire length
Hasbrouck Avenue [Added 7-20-2004 by Ord. No. 2004-8]	4	From Bartholdi Avenue to Boonton Avenue
High Street	4	From Robert Street to Fairview Avenue
Hillcrest Avenue [Added 5-19-1998 by Ord. No. 1998-16]	4	Entire length
Lafayette Avenue [Added 9-19-1989 by Ord. No. 28-89]	4	Entire length
Maybe Lane [Added 7-20-2004 by Ord. No. 2004-8]	4	From Bartholdi Avenue to Boonton Avenue
Morse Avenue [Added 12-17-1996 by Ord. No. 1996-13; amended 4-15-1997 by Ord. No. 1997-5]	4	From Route 23 to Bellevue Avenue
Myrtle Avenue [Added 12-17-1996 by Ord. No. 1996-13; amended 4-15-1997 by Ord. No. 1997-5]	4	From Morse Avenue to Carey Avenue

11. Editor's Note: This ordinance also provided that regulatory and warning signs shall be erected and maintained to effectuate the above-designated weight limitation as authorized by the Department of Transportation and that this ordinance shall take effect upon approval by the Commissioner of Transportation.

Name of Street	Weight Limit (tons)	Location
Roosevelt Avenue [Amended 5-19-1998 by Ord. No. 1998-16]	4	Entire length
Western Avenue [Added 5-19-1998 by Ord. No. 1998-16]	4	Entire length

§ 225-43. Schedule VI: One-Way Streets.

In accordance with the provisions of § 225-14, the following described streets or parts of streets are hereby designated as one-way streets in the direction indicated:

Stop Sign on	Direction of Travel	Location
Argonne Road [Added 5-18-2010 by Ord. No. 2010-3]	South	Entire Length from Route 23 South to opposite end onto Route 23 South
Boonton Avenue	South	From Kiel Avenue to Carey Avenue
Carey Avenue	East	From Boonton Avenue to Robert Street
Cascade Way [Added 7-15-1980 by Ord. No. 80-9]	East	From Roosevelt Avenue to Route 23
Cook Street [Added 7-15-1986 by Ord. No. 14-86; repealed 4-21-1987 by Ord. No. 3-87]		
High Street	West	From Robert Street to Boonton Avenue
Mabey Lane	East	From Bartholdi Avenue to Pearl Place
Mabey Lane	West	From Bartholdi Avenue to Boonton Avenue
Pearl Place	North/East	From Mabey Lane to Hasbrouck Avenue
Robert Street	North	From Carey Avenue to High Street

§ 225-44. Schedule VII: Through Streets.

In accordance with the provisions of § 225-15, the following described streets or parts of streets are hereby designated as through streets. Stop signs shall be installed on the near right side of each street intersecting the through street, except where yield signs are provided for in the designations.

Name of Street	Limits
Bartholdi Avenue	From Route 23 to Carey Avenue Bellevue
Avenue	From Cleary Avenue to Bartholdi Avenue
Boonton Avenue	From the Kinnelon-Butler line to Route 23

Name of Street	Limits
Boonton Avenue	From Route 23 to Main Street
Carey Avenue	From Myrtle Avenue to Boonton Avenue
Cascade Way	From Route 23 to the Kinnelon-Butler line
Decker Road	From Kiel Avenue to Hamburg Turnpike
High Street [Amended 6-16-1992 by Ord. No. 1992-10]	From Fairview Avenue to Robert Street
Kiel Avenue	From Route 23 to Boonton Avenue
Main Street	Entire length
Paterson-Hamburg Turnpike	Entire length
Valley Road	From Boonton Avenue to Route 23

§ 225-45. Schedule VIII: Stop Intersections.

In accordance with the provisions of § 225-16, the following described intersections are hereby designated as stop intersections, and stop signs shall be installed as follows:

Intersection	Stop Sign On
Argonne Road and Route 23 South [Added 5-18-2010 by Ord. No. 2010-3]	Argonne Road
Gormley Lane and Kikeout Road	Kikeout Road
John Street and Central Avenue	Central Avenue
Kikeout Road and Tintle Road	Tintle Road
Morse Avenue and Struble Street	Struble Street
Myrtle Avenue and Richard Street	Myrtle Avenue and Richard Street*
	*Three-Way Stop Intersection
Pearl Place and Hasbrouck Avenue	Hasbrouck Avenue
Pine Street and New Street [Added 7-20-2010 by Ord. No. 2010-4]	Pine Street
Sunset Avenue and Leonard Road [Added 7-20-2010 by Ord. No. 2010-4]	Sunset Avenue
South Gifford Street and Elm Street [Added 7-20-2010 by Ord. No. 2010-4]	South Gifford Street

§ 225-46. Schedule IX: Yield Intersections.

In accordance with the provisions of § 225-17, the following described intersections are hereby designated as yield intersections, and yield signs shall be installed as follows:

Intersection	Yield Sign On
	(Reserved)

§ 225-47. Schedule X: Loading Zones.

In accordance with the provisions of § 225-19, the following described locations are hereby designated as loading zones:

Name of Street	Side	Location
		(Reserved)

§ 225-48. (Reserved) ¹²

12. Editor's Note: Former § 225-48, Schedule XI: Taxi Stands, was repealed 2-20-2007 by Ord. No. 2007-3

§ 225-49. (Reserved) ¹³

§ 225-50. Schedule XIII: U-Turn Prohibitions.

In accordance with the provisions of § 225-24, no person shall make a U-turn at any of the following locations:

Name of Street	Location
Main Street [Added 5-19-1998 by Ord. No. 1998-17]	Park Place to Manning Avenue (including turns into parking places)

§ 225-51. Schedule XIV: Prohibited Turns at Intersections.

In accordance with the provisions of § 225-25, no person shall make a turn of the kind designated below at any of the following locations:

Intersection	Turn Prohibited	Time	Movement Prohibited
Bartholdi Avenue and Lafayette Street [Added 12-17-1996 by Ord. No. 1996-13; amended 4-15-1997 by Ord. No. 1997-5; 2-16-1999 by Ord. No. 1999-5]	Left	All	Northbound on Bartholdi Avenue to westbound on Lafayette Avenue
Hillcrest Avenue and Avenue [Added 5-18-2010 by Ord. No. 2010-3]	Left	All	Left turn off of Hillcrest Kiel onto Kiel Avenue

§ 225-52. Schedule XV: Prohibited Right Turns on Red Signals. [Amended 12-13-1994 by Ord. No. 1994-19]

In accordance with the provision of § 225-26, no person shall make a right turn when facing a steady red signal (stop indication) in any of the following locations:

Location	Prohibited Right Turn
Decker Road	Onto Hamburg Turnpike

§225-53. Schedule XVI: Lane Use Reservations.

In accordance with the provisions of § 225-27, all vehicles shall move as described below:

Intersection (Location)	Lane Reserved (Reserved)	Purpose
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13. Editor's Note: Former § 225-49, Schedule XII: Bus Stops, as amended, was repealed 10-18-2005 by Ord. No. 2005-23.

§ 225-54. Schedule XVII: Snow Emergency No-Parking Areas. [Amended 6-17-2003 by Ord. No. 2003-15]

In accordance with the provisions of § 225-28, no person shall park a vehicle upon either side of any of the streets or parts of streets within the Borough of Butler whenever snow has fallen and the accumulation is such that it covers the street or highway:

§ 225-55. Schedule XVIII: Speed Limits. [Amended 11-12-2019 by Ord. No. 2019-17; Amended 03-12-2022 by Ord. No. 2022-03]

In accordance with the provisions of § 225-32, speed limits are hereby established upon the following described streets or parts thereof:

Name of Street	Speed Limit (miles per hour)	Location
Bartholdi Avenue [Amended 5-17-1988 by Ord. No. 13-88; 2-14-1989 by Ord. No. 5-89]	30	From Route 23 to Carey Avenue, except for 25 miles per hour when passing through the Butler High School and St. Anthony Elementary School zone while "25 MPH When Flashing" signs are operating, during recess or while children are going to or leaving school during opening or closing hours
Boonton Avenue	35	Zone 1 — From the south Borough line to Route 23
Boonton Avenue	40	Zone 2 — From Route 23 to Mabey Lane
Boonton Avenue	35	Zone 3 — From Mabey Lane to Main Street
Kiel Avenue	35	Zone 1 — From Route 23 to Witteck Street
Kiel Avenue	30	From Witteck Street to Boonton Avenue
Paterson-Hamburg Turnpike	35	From the west Morris County line to the east Morris County line
Marion Avenue	20	Entire Length
Von Blitz Avenue	20	Entire Length

§ 225-56. Schedule XIX: Traffic Control Signals.

In accordance with the provisions of § 225-34, traffic control signals shall be installed at the following described intersections:

Intersections
(Reserved)

§ 225-57. Schedule XX: No-Passing Zones.

In accordance with the provisions of § 225-36, no-passing zones are hereby established and shall be maintained upon the following described streets or parts of streets:

Name of Street	Location
Bartholdi Avenue [Added 5-19-1998 by Ord. No. 1998-14]	From Carey Avenue to Route New Jersey 23, a distance of 3,650 feet
Decker Road [Added 12-11-1990 by Ord. No. 1990-25]	From Hamburg Turnpike to Kiel Avenue
Main Street [Added 5-19-1998 by Ord. No. 1998-14]	From Passaic-Morris County line to the Morris-Passaic County line, a distance of 3,370 feet
Park Place [Added 5-19-1998 by Ord. No. 1998-14]	From Main Street to Kiel Avenue-High Street, a distance of 440 feet
Paterson-Hamburg Turnpike [Added 5-19-1998 by Ord. No. 1998-14]	From Passaic-Morris County line to the approach of Route New Jersey 23, a distance of 6,880 feet

§ 225-58. Schedule XXI: Regulation of Private Property.

In accordance with the provisions of § 225-37 and pursuant to N.J.S.A. 39:5A-1, Subtitle 1 of Title 39 of the New Jersey Statutes shall apply to the following private properties:

Name of Property	Location
Grand Union Shopping Center [Added 7-21-1987 by Ord. No. 14-87]	1510 Route 23, Lot 1, Block 201, on the Borough Tax Map
Meadtown Shopping Center	Kiel Avenue and Route 23, Lot 1, Block 54, on the Borough Tax Map

Chapter 230

VIOLATIONS AND PENALTIES

§ 230-1. General penalty.

§ 230-2. Violations and penalties.

§ 230-3. Repeat violations.

§ 230-4. Abatement of housing or zoning code violations.

§ 230-5. Separate violations.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 6-13-1989 by Ord. No. 20-89; amended in its entirety 4-18-2006 by Ord No. 2006-7. Subsequent amendments noted where applicable.]

§ 230-1. General penalty.

The penalty for a violation of any provision of this Code which refers to this chapter or for which no other penalty is provided shall be as set forth herein.

§ 230-2. Violations and penalties.

- A. The person, firm or corporation violating any provisions of the Borough Code or any ordinance of the Borough of Butler for which no other penalty is provided shall be subject to imprisonment in the county jail for a term not exceeding 90 days, or by a period of community service not exceeding 90 days, or by a fine not exceed \$2,000, or by any combination thereof.
- B. There shall be a minimum penalty for the violation of any provision of this Code or any Borough ordinance for which no other penalty is provided of a fine of \$100.
- C. The court before which any person is convicting of violating any ordinance covered by this chapter shall have the power to impose any fine, term of imprisonment, or period of community service not less than the minimum and not exceeding the maximum set forth in this section.

§ 230-3. Repeat violations.

Any person who is convicted of violating any ordinance within one year of the date of a previous violation of the same ordinance and who is fined for the previous violation, shall be sentenced by the Court to an additional fine as a repeat offender. The additional fine imposed by the Court upon a person for a repeat offense shall be not less than \$100 nor more than \$2,000, but shall be calculated separately from the fine imposed for the violation of the Ordinance.

§ 230-4. Abatement of housing or zoning code violations.

The maximum fine for the violation of any housing or zoning code shall be \$1,250 unless the owner is provided with a thirty-day period in which they are given an opportunity to cure or

abate the condition after being afforded an opportunity for a hearing before the Court and an independent determination concerning the violation. In the event the Court determines that the abatement has not been substantially completed within the thirty-day period, a fine not to exceed \$2,000 may be imposed.

§ 230-5. Separate violations.

Each day that any Borough ordinance shall be violated shall be construed to be a separate and distinct violation subjecting the person, firm, or corporation convicted of violating the ordinance to separate and cumulative penalties under this chapter.

Chapter 234

WATER

- § 234-1. Title.
- § 234-2. Definitions.
- § 234-3. Connection procedures.
- § 234-4. Installation.
- § 234-5. Rules and regulations.
- § 234-6. Refusal to admit inspector.
- § 234-7. Fees and rates; billing procedures.
- § 234-8. Interruption, discontinuance or termination of service.
- § 234-9. Violations and penalties.
- § 234-10. Water emergency.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler as Ch. XII of the Revised General Ordinances of 1976. Amendments noted where applicable.]

§ 234-1. Title.

This chapter shall be known as the "Borough of Butler Water Ordinance." The rules and regulations herein ordained, wherever applicable, shall be taken to be and considered a part of the contract with every person supplied with water by the Water Department and shall be bound hereby and by the definitions, terms and conditions hereof and any supplements hereto and amendments hereof.

§ 234-2. Definitions.

Whenever in this chapter the following words, clauses or terms are used, they shall be construed to mean and shall have the meanings herein defined, unless otherwise specifically stated or some other meaning is obviously and clearly intended:

AGENT — The occupant, in the absence of instructions from the owner of any property or premises or his duly authorized agent to the contrary of any property or premises, insofar as his relations to the Department may be concerned, with respect to water uses and existing services.

DEPARTMENT — The Water Department of the Borough of Butler.

MAINS — All pipes, other than supply pipes and service pipes, used for conveying or distributing water in the Borough.

OWNER — Any person, firm, corporation or association actually owning any property or premises, which is or can be prospectively supplied with water, or his duly authorized agent.

PREMISES — A single-family dwelling or a two-family dwelling or an apartment house occupied by more than one family or a building occupied for industry, business or other purposes by one or more persons, together with the land appurtenant thereto and such outbuildings as are used exclusively in connection therewith or any part of a building with the land appurtenant thereto when sold as a separate unit.

SERVICE PIPE — The pipe extending from the curb stop into privately owned property or premises for supplying water thereto.

SUPPLY PIPE — Any pipe connected to the main and extending thence to and including the curb stop or valve at the curblineline of the street.

UNIT — A room or group of rooms located within a building and leased, occupied or intended to be leased or occupied as a self-contained dwelling or commercial entity. **[Added 2-9-1993 by Ord. No. 1992-28]**

WATER RATES — Rates or prices to be charged for water furnished by the Department to any consumer.

§ 234-3. Connection procedures.

- A. Extensions to or construction of new mains. Extensions to or the construction of new mains within the service area may be initiated by the Borough Council or upon petition from property owners or citizens upon forms provided by the Department. All water mains shall be a minimum of eight inches in diameter and consist of cast iron cement lined pipe. The Borough Council shall prescribe the terms and conditions upon which such petition will be granted and shall require the written acceptance and guaranty thereof by the applicants. If it is granted, the Council will direct the Department to proceed, as promptly as possible, with the work. The cost of such extension, unless otherwise provided by the Borough Council, shall be prorated among the property owners benefited thereby on a front-foot basis. The provisions of this chapter shall be subject to the requirements of N.J.S.A. 48:2-27 and 14A:1-9.
- B. Application for water supply. Application for the introduction of Borough water on existing mains or for change in an existing water supply to any property shall be made in writing by the owner thereof or his authorized agent, upon forms supplied by the Department and all conditions thereof duly subscribed to on such forms. Upon the receipt thereof, the Department shall make or cause to be made an inspection of the premises and, unless the application is rejected for cause, shall render a bill to the owner of such premises. Upon payment in full of such a bill, the Department shall proceed with the work as promptly as practicable. No additional connections or alterations to existing connections shall be made to any premises, unless and until charges of every nature due the Department from such owner or against such premises are first paid. **[Amended 2-9-1993 by Ord. No. 1992-28]**

§ 234-4. Installation. [Amended 2-9-1993 by Ord. No. 1992-28]

- A. Supply pipes shall be furnished and installed by the Department at the expense of the customer and maintained by the Department at the Borough's cost and shall remain the property of the Borough. Service pipes conforming to Borough specifications will be laid to the premises from the curb to the dwelling by the owner or occupant of such premises at his own cost and expense. When new service pipes are installed to any property, the curb cock shall be left closed and will thereafter be opened only by the Department upon request of the owner of such property, which request must be in writing. Under no circumstances shall curb cocks be opened or closed by any person not an authorized

employee of the Department. Any necessary street opening permits for installing service connections shall be obtained from the Borough, which shall not be required to furnish service until after such permits are granted. The charges, if any, for permission to open the street shall be paid by the customer.

B. Meters.

- (1) Installation. All meters shall be installed by the Borough unless otherwise directed by the Borough.
- (2) Meter test. The Borough shall, without charge, make a test of the accuracy of a meter upon the request of a customer, provided that such customer does not make a request for a test more frequently than once in 12 months. A report giving results of such tests shall be made to the customer, and a complete record of such tests shall be kept on file at the offices of the Borough.
- (3) Adjustment of charges.
 - (a) Whenever a meter is found to be registering fast by 2% or more, an adjustment of charges shall be made in accordance with the following:
 - [1] If the date when the meter had first become inaccurate can definitely be ascertained, then the adjustment shall be such percentage as the meter is found to be in error at the time of the test on the amount of the bills covering the entire period that the meter had registered inaccurately.
 - [2] In all other cases the adjustment shall be such percentage as the meter is found to be in error at the time of the test on 1/2 of the total amount of the billing affected by the fast meter since the previous test.
 - (b) No adjustment shall be made for a period greater than the time during which the customer has received service through that meter.
- (4) Regulating authority. All other applicable regulations of the New Jersey Board of Public Utilities Commission shall govern, where appropriate.

C. Service connection for subdivided premises. Where a building, originally built as a single building or premises and fitted with one service pipe but capable of being divided by sale or otherwise, has been or may hereafter be subdivided, the separate divisions so made shall be reported to the Department and, if considered necessary, shall be connected to the mains by separate service pipes within 30 days from the date of notification by the Department so to do.

D. Protection against freezing; responsibility of owner. Service pipes running from curb cock and between the cellar wall or meter likely to be exposed to freezing temperatures must be effectively protected from freezing. All service pipes, including mains, shall be installed at a depth not less than four feet. Thawing out of service pipes, when freezing has occurred on the house side of the curb stop, shall be the responsibility of the owner, and payment for the same shall be made by the owner.

§ 234-5. Rules and regulations.

- A. Use of check valves. No unauthorized check valve or similar apparatus shall be installed on any premises in such a manner as to prevent water from backing into the Borough mains if a higher pressure is developed on such premises, by heat or otherwise, than the pressure in the Borough system, except on fire lines. The Department shall not be responsible for any damage caused thereby, and, if such apparatus is found upon inspection, it shall be removed at once upon written notice.
- B. Connection of water from other sources. No premises using water from any other source shall be connected with the Borough mains in any manner contrary to the rules and regulations of the State Department of Health or any of its agencies.
- C. Sale or resale of water. No owner or consumer furnished with water by the Department shall sell, resell or offer for sale any of such water without first receiving the consent of the Borough.
- D. Reconnection or disconnection of water. No person shall either reconnect or disconnect water service to any property serviced with water by the Borough without the express permission of the Borough. It is a violation of this chapter for any person to disconnect or reconnect water service without first receiving the consent of the Borough. **[Added 8-20-2002 by Ord. No. 2002-39]**

§ 234-6. Refusal to admit inspector.

No person shall hinder or refuse to admit any Borough commissioner, officer, inspector, foreman or other authorized employee of the Department, upon presentation of a badge or other credentials to any premises supplied with Borough water, for the purpose of making inspection thereof, including the examination of the entire water supply and plumbing system upon such premises.

§ 234-7. Fees and rates; billing procedures. [Amended 3-5-1979 by Ord. No. 79-3; 7-17-1979 by Ord. No. 79-13; 9-15-1981 by Ord. No. 17-81; 3-1-1982 by Ord. No. 82-2; 6-7-1982 by Ord. No. 82-6; 2-19-1985 by Ord. No. 85-2; 4-1-1986 by Ord. No. 6-86; 6-17-1986 by Ord. No. 13-86; 3-17-1987 by Ord. No. 2-87; 3-15-1986 by Ord. No. 5-88; 12-6-1988 by Ord. No. 30-88; 2-9-1993 by Ord. No. 1992-28; 3-19-2024 by Ord. No. 2024-02]

A. Service fees.

- (1) Maintenance; responsibility of owner; costs. The owner is responsible for the operable condition of any device installed on the owner's service from the curbbox, except the meter. When meters are damaged through the owner's negligence, however, the owner shall be charged for the necessary repairs. The costs to be charged to the owner for such repairs shall cover all materials, labor and replacement of the same in an acceptable condition. **[Amended 12-20-2005 by Ord. No. 2005-26]**
- (2) Other service fees.

- (a) Reconnection or disconnection of service: **[Amended 8-20-2002 by Ord. No. 2002-39]**

[1] Regular service charge (7:00 a.m. to 3:00 p.m., Monday through Friday): \$75.

[2] Anytime not within regular service hours: \$150.

- (b) Testing meters. The following rates shall be charged only in the event that it is determined that a meter is in good condition and only in the event that there is more than one request for a test in a year:

Size of Meter (inches)	Fee
5/8	\$30
3/4	\$35
1	\$50
1 1/2	\$70
2	\$80

- (c) Charges for setting meters and remote registers. The following rates shall be charged to set meters and remote registers at the following charges:

Size (inches)	Meter Only	Remote Register Only	Meter and Register
5/8	\$45	\$15	\$60
3/4	\$65	\$15	\$80
1 or larger	\$95	\$15	\$110

- B. Water rates. The following rents, rates and charges are hereby established for water supplied by the Department: **[Amended 11-17-1997 by Ord. No. 1997-26; 1-19-1999 by Ord. No. 1999-2; 3-18-2008 by Ord. No. 2008-4; 4-20-2010 by Ord. No. 2010-1A; 7/26/2015 by Ord. No. 2015-15; 3-17-2021 by Ord. No. 2021-4]**

- (1) Domestic metered. This schedule of rates shall consist of two (2) parts or elements, first, a fixed charge; and second, a proportional charge.

- (a) Fixed meter service charge (based on the size of the meter required to serve the customer on a quarterly basis) shall be as follows:

Size of Meter (inches)	Per Quarter Butler & Jurisdictional Customers		
	2024	2025	2026 and beyond
5/8	\$45.00	\$47.50	\$50.00
3/4	\$45.00	\$47.50	\$50.00
1	\$65.00	\$68.65	\$72.25
1-1/2	\$82.15	\$86.75	\$91.30
2	\$102.00	\$107.70	\$113.50
3	\$253.00	\$267.00	\$281.00
4	\$504.00	\$532.00	\$560.00
6	\$958.00	\$1011.25	\$1064
8	\$1,254.00	\$1,324.00	\$1,394.00

Provided, however, that each multi-tenant residential or nonresidential building supplied through one (1) service connection or meter shall pay for each unit supplied through the service connection as follows:

2024	Forty Five Dollars (\$45.00)
2025	Forty Seven Dollars and 50 cents (\$47.50)
2026 and beyond	Fifty Dollars (\$50.00)

(b) Proportional Charge. In addition to the fixed charge, all metered water shall be charged as follows: The rent per one thousand (1,000) gallons shall be:

2024	Five Dollars and 25 cents (\$5.25).
2025	Five Dollars and 50 cents (\$5.50).
2026 and beyond	Five Dollars and 75 cents (\$5.75).

Provided, however, that each multi-tenant residential or nonresidential building supplied through one (1) service connection or meter shall pay for each unit supplied through the service connection as follows:

2024	Forty Five Dollars (\$45.00)
2025	Forty Seven Dollars and 50 cents (\$47.50)
2026 and beyond	Fifty Dollars (\$50.00)

(b) Proportional Charge. In addition to the fixed charge, all metered water shall be charged as follows: The rent per one thousand (1,000) gallons shall be:

2024	Five Dollars and 25 cents (\$5.25).
2025	Five Dollars and 50 cents (\$5.50).
2026 and beyond	Five Dollars and 75 cents (\$5.75).

C. Fire service. Rates for fire protection service shall be the following:

- (1) Private fire service connection for hydrants and hose connections for sprinkler systems on private property at the following rate:

Sprinklered Area (square feet)	Charge (per quarter)
Up to 2,000	\$40
To 25,000	\$80
To 50,000	\$90
To 100,000 and over	\$100

- (2) Where private fire service connection is not metered, a quarterly charge of \$25 per yard hydrant or \$25 per hose or sprinkler connection shall be made.

D. Billing procedures.

- (1) Provisions. **[Amended 8-20-2002 by Ord. No. 2002-39]**
 - (a) All service shall be billed quarterly.
 - (b) Private dwellings constructed or altered to house two or more families shall be billed for each unit separately, after inspection by the Department.
- (2) Collection of bills.

- (a) Bills for water supplied for any quarterly period or fraction thereof shall be dated on the last day of such period or on the day when the water is turned off and shall be due and payable on the date when dated.
 - (b) If bills are not paid within 30 days of the date they are rendered, they shall be delinquent and shall bear interest on the delinquent amount at a rate established by the Borough for delinquent real estate taxes. Amounts due on delinquent bills shall become a lien upon the real estate for which the water service has been supplied, as provided by law. **[Amended 12-16-1997 by Ord. No. 1997-28]**
- (3) Nonpayment of a lien upon property.
- (a) Under the laws of the State of New Jersey, all charges for water, including interest, are liens upon the premises or property on account of which such charge is incurred, until paid and satisfied.
 - (b) Where water is turned off because of nonpayment of charges, it shall not be turned on again until such charges have been paid, including the fee for such turning on.
- E. Bulk sales. The following rates are hereby established for bulk sales of water: **[Amended 11-17-1997 by Ord. No. 1997-26; 1-19-1999 by Ord. No. 1999-2; 3-18-2008 by Ord. No. 2008-4]**

Customer	Butler and Jurisdictional Customers (per quarter)
Borough of Kinnelon	\$2.50
Passaic Valley Water Commission	\$2.50

- F. Security deposit for water supply service. **[Amended 3-18-2008 by Ord. No. 2008-4]**
- (1) The residential tenant shall pay a water supply service deposit of \$100 prior to receiving water supply service as a customer.
 - (2) The commercial tenant shall pay a water supply service deposit of an estimated quarterly bill based upon usage of similar type businesses prior to receiving water supply services as a customer.
- G. (Reserved)
- H. Connection fee. A connection fee shall be charged for each connection of any property to the water supply system. The connection fee shall be \$1,500. **[Amended 9-23-1997 by Ord. No. 1997-21]**
- I. Temporary water hookup permit. A permit may be obtained to allow the temporary usage of Borough water in connection with construction activities, including road construction activities utilizing a fire hydrant connection. A temporary water usage permit shall allow the permittee to utilize Borough water for a thirty-day period. The fee for the permit shall

be \$75 per day of usage for all but residential dwelling construction. For residential construction, the fee shall be \$100 per unit for the ninety-day period. The method of connection or utilization of Borough water shall be subject to the approval of the Borough Water Department Superintendent. [Added 9-23-1997 by Ord. No. 1997-19]

§ 234-8. Interruption, discontinuance or termination of service. [Amended 12-6-1988 by Ord. No. 29-88]

A. Service interruption.

- (1) In the event that it becomes expedient to shut off the water from any section of the Borough because of accidents or fire, or in order to make repairs or extensions, or for other necessary purposes, the Department shall endeavor to give timely notice to those affected thereby and shall, so far as practicable, use its best efforts to prevent inconvenience or damage arising from such cause. Failure to give such notice or to receive the same shall not render the Department responsible or liable for damage to property or any refund that may result therefrom or from any other cause.
- (2) Whenever any notice is required to be given by the Department, it shall be given in person, by telephone or by mailing a copy thereof, postage prepaid, at the post office in the Borough, to the last known address of the person to be notified, as the same appears on the books of the Department, and the notice so given shall be conclusively deemed to have been given at the time of mailing.
- (3) At no time shall the Department be liable for damage caused by defective or leaking fixtures.

B. Discontinuance of service.

- (1) Where it is desired to permanently discontinue the use of Borough water on any premises, a request, in writing if so desired, stating the reasons therefor shall be made by the owner to the Department. The Department shall turn off the water at the curb cock, and the charges for waters to such premises will thereafter be abated.
- (2) In case of temporary vacancy by the owner or occupant of any premises, the water shall be turned off at the curb cock by the Department, upon written request therefor stating the period of such discontinuance, and shall be turned on again on the last-named date. A charge shall be made for this service as provided in § 234-7A(2) hereof.
- (3) Where the premises are left unoccupied or vacant, no rebate will be allowed for water registered by the meter unless the water is turned off at the curb cock.

C. Termination of service. [Amended 8-20-2002 by Ord. No. 2002-39]

- (1) In the event that a water bill or sewer bill remains unpaid for a period of 30 days after the bill is rendered and mailed, the service to said premises may be terminated, upon notice as provided hereafter.

- (2) Notice of termination of service for nonpayment shall be forwarded by mail to the customer at least 10 days prior to the scheduled shutoff. If service is disconnected, the owner of the property shall be notified also. **[Amended 3-18-2008 by Ord. No. 2008-4]**
- (3) The notice of termination shall state the date of the proposed termination of service and the reason therefor.

§ 234-9. Violations and penalties.

- A. Violation. Whenever the Borough Council shall restrict the use of Borough water by order duly published, or by proclamation issued by the Mayor of the Borough, no person shall use Borough water in violation of such order or proclamation and for such a violation shall be subject to the provisions of the subsection on penalties, but without the notice as therein provided.
- B. Penalties.
 - (1) Failure to meet any provisions of this chapter after being duly notified shall be penalized by discontinuance of service until such irregularities are rectified.
 - (2) For penalty provisions, see Chapter 230, Violations and Penalties. **[Amended 6-7-1982 by Ord. No. 82-5; 6-13-1989 by Ord. No. 20-89]**

§ 234-10. Water emergency. [Added 11-12-1990 by Ord. No. 1990-23]

- A. Declaration of water emergency. Whenever the Borough Council shall be satisfied and finds that a water emergency exists in the Borough, it may adopt a resolution declaring that a water emergency exists in the Borough. Such resolution shall be adopted by the governing body at any regular, special, adjourned or emergency public meeting of the Borough Council. Such resolutions shall identify that portion of the Borough affected by the water emergency, which may include the entire Borough, and shall specify which of the water use regulations contained in Subsection B of this section is being imposed, as well as any exemptions as may be authorized. Such resolution shall be effective immediately upon publication according to law and shall continue in effect for 90 days, unless extended or repealed as set forth in Subsection C of this section.
- B. Water use restrictions. Upon adoption by the Borough Council of a resolution declaring that a water emergency exists in the Borough in accordance with Subsection A of this section, all citizens shall be urged to observe voluntary indoor conservation measures and any of the following water use restrictions shall be imposed and shall be applicable to all residents and tenants, except where a bona fide health emergency exists and to exempt businesses, as specified herein during the water emergency:
 - (1) The complete ban and prohibition of outside water usage, including the watering of lawns and plants, the filling of pools and the washing of cars; or
 - (2) Outside water usage on alternate days allowing outside water usage by persons or businesses having even house numbers on even days and those having odd house

or box numbers on odd days, with outside water usage being completely banned and prohibited on the thirty-first-day of any month during the water emergency; or

- (3) Any other water use restriction specified by the governing body in the resolution required by Subsection A of this section which is reasonable under the circumstances considering the nature and extent of the water emergency. Any water restriction imposed pursuant to this subsection shall be limited in application to that portion of the municipality, which may include the entire municipality, identified as being affected by the water emergency in the resolution of the governing body adopted in accordance with Subsection A of this section.
- C. Duration of water use restrictions. The resolution of the Borough Council required by Subsection A of this section shall, in addition to complying with Subsection A, provide a period of time during which the water use restrictions imposed shall be applicable and which shall be no longer than reasonably necessary to abate the water emergency under the circumstances considering the nature and extent of the water emergency. At the expiration of the time period specified in the resolution, the water use restriction shall lapse and be inapplicable and unenforceable. If the Borough Council shall be satisfied that the water emergency has been abated prior to the expiration of the time period specified in the resolution, it shall adopt a resolution declaring the water emergency ended and the water use restrictions inapplicable. If, at the expiration of the time period specified in the resolution, the Borough Council shall be satisfied that the water emergency continues to exist, it may adopt a resolution in accordance with the requirements of this section continuing the water use restrictions.
 - D. Enforcement of water use restrictions. The water use restrictions imposed pursuant to this section shall be enforced during a water emergency by the Water Foreman or a member of the Police Department of the Borough of Butler. Whenever the Water Foreman or a member of the Police Department shall find a violation of the water use restrictions, he or she shall give the violator a written warning and explain the penalties for a second and third offense as provided in Subsection E of this section. The Water Foreman shall keep such records as may be reasonable and necessary for the purpose of determining the persons and businesses who have been warned upon a first offense. The Water Foreman or a member of the Police Department is hereby empowered to write summonses for the violation of the water use restrictions imposed pursuant to this section.
 - E. Penalties. After the first offense, upon which a written warning shall be issued pursuant to Subsection D of this section, any person who thereafter violates the water use restrictions imposed under this section shall be subject to the penalties set out in Chapter 230, Violations and Penalties.

PART III

**BOARD OF HEALTH
LEGISLATION**

Chapter 240

GENERAL PROVISIONS, BOARD OF HEALTH

ARTICLE I

Interpretation and Enforcement

§ 240-1. Provisions to apply.

§ 240-2. Emergency powers of Health Officer.

§ 240-3. Right of entry.

§ 240-4. Special health reporting officers.

ARTICLE II

Adoption of Code by Board of Health

[HISTORY: Adopted by the Board of Health of the Borough of Butler as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Interpretation and Enforcement

[Adopted as Ch. BH-1 of the Revised General Ordinances of 1976]

§ 240-1. Provisions to apply.

The provisions of Chapter 1 of the Code of the Borough of Butler in the County of Morris concerning short title, definitions, construction and severability shall apply to all chapters adopted by the Board of Health.

§ 240-2. Emergency powers of Health Officer.

Whenever the Health Officer finds that the public safety will not permit delay, he may exercise one or more of the following powers without having to resort to legal proceedings and without the necessity of giving notice or holding any hearing which would otherwise be required under any provision of this Code:

- A. Power to prevent the sale of food. The Health Officer may prohibit the importation into the Borough or sale of any food, drink or other item intended for human consumption or use from a source suspected of being infected, contaminated, unsanitary, unhealthy or dangerous.
- B. Power to seize and destroy unwholesome food. The Health Officer may order the seizure and destruction of any food, drink or other item intended for human consumption which is unwholesome or dangerous or likely to cause sickness or injury to the persons who consume it.

§ 240-3. Right of entry.

- A. Inspection of premises. The Board of Health, its agents and employees shall have the right to inspect any premises in the Borough if they have reason to believe that any provision of this Code is being violated or as part of a regular program of inspection.
- B. Search warrant. If the owner or occupant of any premises refuses to permit entry for the purpose of inspection, the Board of Health may apply to the Municipal Judge for a search warrant. The application shall be based upon an affidavit setting forth that the inspection is part of a regular program of inspection or that conditions and circumstances provide a reasonable basis for believing that a nuisance or unsanitary or unhealthy condition exists on the premises. If the Judge is satisfied as to the matters set forth in the affidavit, he shall authorize the issuance of a search warrant permitting access to and inspection of the premises.

§ 240-4. Special health reporting officers.

There shall be, when appointed by the Board of Health, special health reporting officers who shall promptly report to the Board every violation of health ordinances and rules and regulations which may come within their observation and knowledge. The police and fire officers of the Borough may be designated special health reporting officers of the Board of Health.¹

ARTICLE II

Adoption of Code by Board of Health

[An ordinance adopting Part III of the Code of the Borough of Butler and making certain substantive changes to existing Board of Health ordinances of the Borough is presently proposed before the Board of Health. Upon final adoption, it will be included here as Article II of this chapter.]

1. Editor's Note: Former § 240-5, Licenses; fees, as amended, which immediately following this section, was repealed 2-24-1993 by Ord. No. 93-01.

Chapter 247

FOOD ESTABLISHMENTS, RETAIL

§ 247-1. Title; adoption of standards.

§ 247-2. License required.

§ 247-3. Fees.

§ 247-4. License expiration and renewal.

§ 247-5. Transferability of license.

§ 247-6. Revocation of license.

§ 247-7. Violations and penalties.

[HISTORY: Adopted by the Board of Health of the Borough of Butler 2-24-1993 as part of Ord. No. 93-01.¹ Amendments noted where applicable.]

§ 247-1. Title; adoption of standards.

Chapter 247 shall be entitled "Food Establishments, Retail," and pursuant to the N.J.S.A. 26:1A-1 through 26:1A-7 et seq., there is adopted N.J.A.C. 8:24-1.1 through 8:24-13.14 and the supplements and additions thereto.

§ 247-2. License required.

No person shall operate a retail food establishment or food and beverage machine unless a license to operate the same shall have been issued by the Department of Health. Such license shall be posted in a conspicuous place in such establishments.

§ 247-3. Fees.

There shall be a fee established for a license or license approval issued pursuant to this chapter. Retail food establishment licenses and associated fees shall be defined as follows:

- A. CLASS I, Food and drink: any retail food establishment, including those defined in Chapter 12 of the New Jersey State Sanitary Code, in which food or drink is prepared, served, handled or provided for the public with or without charge.

Type	Fee
Nonseating	\$100.00
Prepackaged only	\$50.00
1 to 50 seats	\$100.00
51 to 100 seats	\$125.00
101 seats and over	\$150.00

1. Editor's Note: This ordinance also provided for the repeal of former Ch. 247, Food Establishments, Retail, adopted as Section BH:3-4 of the Revised General Ordinances of 1976.

- B. CLASS II, Supermarket: any nonseating food establishment as defined in Class I which is 12,000 square feet or more: \$200.
- C. CLASS III, School: any food establishment as defined in Class I whose principal purpose is educational: \$100.
- D. CLASS IV, Mobile food and drink: shall include any motor vehicle or any vehicle cart or bicycle of any kind, including hand-carried portable containers in which food or drink is transported, stored or prepared at temporary locations: \$50.
- E. CLASS V, Temporary retail food establishment: any food establishment as defined in Class I which operates at a fixed location for a temporary period of time not to exceed seven days in connection with a fair, carnival, circus, public exhibition or similar organizational meetings, mobile retail food establishments, as well as agricultural markets: \$50.
- F. CLASS VI, vending machine: any self-service device which, upon insertion of a coin, paper currency, token, card, key or by any other means, dispenses unit servings of food, either in bulk or in packages without the necessity of replenishing the device between each vending operation.

Type	Fee
Prepackaged only	\$20.00
Gumball	\$5.00
All others	\$40.00

- G. CLASS VII, Nonprofit: any food establishment as defined in Class I which has been provided with a Federal Internal Revenue Service tax exemption number and prepares or handles food and drink and serves to the general public: no fee.

§ 247-4. License expiration and renewal.

Licenses issued pursuant to this chapter shall expire annually on December 31 of each year, and the fee therefor shall not be prorated from the date of issuance. Applications for renewal thereof shall be submitted, together with the required fee, prior to December 15 of each year.

§ 247-5. Transferability of license.

Licenses issued pursuant to this chapter shall not be transferable nor shall they be construed as authorizing the licensee or licensees to carry on the business at any place other than that specified in the license itself.

§ 247-6. Revocation of license.

A license issued pursuant to this chapter may be revoked by the Borough Board of Health for any good or sufficient reason, provided that due notice thereof shall be given to the licensee

and a hearing held before the Board of Health, at which time an opportunity shall be afforded the licensee to show cause why the license should not be revoked.

§ 247-7. Violations and penalties.

Each violation of this chapter shall constitute a separate offense and shall be punishable by a civil penalty of not less than \$25 nor more than \$100 and such other criminal penalties as may be provided by law.

Chapter 254

NUISANCES, PUBLIC HEALTH

§ 254-1. Adoption of standards.

§ 254-2. Title.

§ 254-3. Copies on file.

§ 254-4. Violations and penalties.

[HISTORY: Adopted by the Board of Health of the Borough of Butler as Ch. BH-IV of the Revised General Ordinances of 1976. Section 254-4 amended at time of adoption of Code; see Ch. 240, General Provisions, Board of Health, Art. II. Other amendments noted where applicable.]

§ 254-1. Adoption of standards.

A code defining and prohibiting certain matters, things, conditions or acts and each of them as a nuisance, prohibiting certain noises or sounds, requiring the proper heating of apartments, prohibiting lease or rental of certain buildings, prohibiting spitting in or upon public buildings, conveyances or sidewalks, authorizing the inspection of premises by an enforcing official, providing for the removal or abatement of certain nuisances and recovery of expenses incurred by the Board of Health in removing or abating such nuisances and prescribing penalties for violations is hereby established pursuant to Chapter 188 of the Laws of 1950.¹ A copy of such code is annexed hereto and made a part hereof without the inclusion of the text thereof herein.

§ 254-2. Title.

The code established and adopted by this chapter is described and commonly known as the "Public Health Nuisance Code of New Jersey (1953)."

§ 254-3. Copies on file.

Three copies of the Public Health Nuisance Code of New Jersey (1953) have been placed on file in the office of the Clerk of this Local Board of Health upon the introduction of this chapter and will remain on file there for the use and examination by the public.

§ 254-4. Violations and penalties.²

- A. Maximum penalty. Any person violating any of the provisions of this chapter shall, upon conviction thereof, pay a penalty of not less than \$5, nor more than \$500 for each offense. Complaint shall be made in the Municipal Court of the Borough or before such other judicial officer having authority under the laws of the State of New Jersey. In

1. Editor's Note: See N.J.S.A. 26:3-69.1 et seq.

2. Editor's Note: Amended at time of adoption of Code; see Ch. 240, General Provisions, Board of Health, Art. II.

addition, the Court shall have the power to impose other penalties provided by N.J.S.A. 26:3-77 and N.J.S.A. 26:3-78.

- B. Separate violation. Except as otherwise provided, each and every day in which a violation of any of the provisions of this chapter exists shall constitute a separate violation.
- C. Collection of fees and penalties. All fees and penalties collected under any provision of this chapter shall be paid to the Borough Clerk.

Chapter 255

PERSONAL HEALTH PROGRAM

§ 255-1. Fees.

[HISTORY: Adopted by the Board of Health of the Borough of Butler 6-23-1994 by Ord. No. BOH 94-01. Amendments noted where applicable.]

§ 255-1. Fees.

The following fees are hereby established for the personal health program:

Description	Proposed Fee
Coronary risk profile, to include SMAC blood test	\$15.00 to \$25.00
Influenza vaccination (per vaccination)	\$5.00
Female Pap smear (per test)	\$20.00
Male prostate (per test)	\$18.00 to \$35.00
Adult tetanus vaccination (per vaccination)	\$5.00
Ear wax removal	\$7.00
Hemocult slide (per test)	\$5.00
Blood lead, capillary (per test)	\$10.00

Chapter 256

RECREATIONAL BATHING, PUBLIC

§ 256-1. Adoption of standards.

§ 256-2. Title; permits; fees; violations.

[HISTORY: Adopted by the Board of Health of the Borough of Butler 12-8-1993 by Ord. No. 93-02. Amendments noted where applicable.]

§ 256-1. Adoption of standards.

The Borough Board of Health of the Borough of Butler hereby adopts in its entirety the provisions of N.J.S.A. 26:1A-7 et seq. and the provisions of the New Jersey Administrative Code, N.J.A.C. 8:26-1.1 through 8:26-8.9 and the amendments and supplements thereto.

§ 256-2. Title; permits; fees; violations.

- A. There is hereby adopted, in its entirety, the provisions of N.J.S.A. 26:1A-7 et seq. and the provisions of the New Jersey Administrative Code, N.J.A.C. 8:26-1.1 through 8:26-8.9 and the amendments and supplements thereto.
- B. Approval by the Department of Health. No person shall operate a public bathing place within the Borough of Butler unless a license(s) to operate same shall have been issued by the Department of Health. Said license shall be posted in a conspicuous place at the facility. Said license shall not be transferable and shall expire on December 31 following the date of issuance.
- C. Fees. The fee for said license or license approval issued pursuant to this section shall be established as follows:
 - (1) Public bathing beach: \$400.
 - (2) Public hot tub or spa: \$50.
 - (3) Public swimming pool: \$75.
 - (4) Public wading pool: \$50.
 - (5) There shall be no fee for any recreational bathing facility owned and operated by the Borough of Butler.
- D. Denial or suspension of license. The Department of Health shall have the right, in addition to other penalties herein provided under existing state statutes and regulations and the provisions of this chapter, to deny, revoke or suspend a license for noncompliance.
- E. Violations and penalties. Each violation of this chapter shall constitute a separate offense and shall be punishable by a civil penalty of not less than \$25 nor more than \$1,000 and such other criminal penalties as may be provided by law. (See N.J.S.A. 26:1A-10.).

Chapter 257

SANITATION

§ 257-1. Burial of dead animals.

§ 257-2. (Reserved)

§ 257-3. Vehicle requirements.

§ 257-4. License required for sale of ice.

§ 257-5. Violations and penalties.

[HISTORY: Adopted by the Board of Health of the Borough of Butler as Ch. BH-VI of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Animals — See Ch. 72.](#)

[Cats — See Ch. 93.](#)

[Dogs — See Ch. 108.](#)

[Housing standards — See Ch. 136.](#)

[Littering — See Ch. 153.](#)

§ 257-1. Burial of dead animals.

Upon the death of any animal within the Borough, it shall be removed by the owner or person in charge under cover to place of burial immediately and buried at least two feet under the level of the ground, and at least 500 feet from the public highway.¹

§ 257-2. (Reserved) ²

§ 257-3. Vehicle requirements.

All vehicles or receptacles used under any permit for removing the contents of cesspools or privy vaults, or for carrying swill, garbage or other liquid, or partially liquid material, shall be only those approved by the Board of Health, and they shall be watertight and be kept clean and inoffensive when not in use.

§ 257-4. License required for sale of ice.

No person shall sell or offer for sale ice, whether cut within the Borough or brought from other sources, without first securing a license from the Board of Health.

1. Editor's Note: Original Subsections BH:6-2.1, Permit Required, and BH:6-2.2, Fee, which immediately followed this section, were deleted at time of adoption of Code; see [Ch. 240, General Provisions](#), Board of Health, Art. II.

2. Editor's Note: Former § 257-2, Receptacle for garbage disposal required, was repealed 2-21-2007 by Ord. No. 2007-01.

§ 257-5. Violations and penalties. ³

- A. Maximum penalty. Any person violating any of the provisions of this chapter shall, upon conviction thereof, pay a penalty of not less than \$5, nor more than \$500 for each offense. Complaint shall be made in the Municipal Court of the Borough or before such other judicial officer having authority under the laws of the State of New Jersey. In addition, the Court shall have the power to impose other penalties provided by N.J.S.A. 26:3-77 and N.J.S.A. 26:3-78.
- B. Separate violation. Except as otherwise provided, each and every day in which a violation of any of the provisions of this chapter exists shall constitute a separate violation.
- C. Collection of fees and penalties. All fees and penalties collected under this chapter shall be paid to the Borough Clerk.

3. Editor's Note: Amended at time of adoption of Code; see [Ch. 240, General Provisions](#), Board of Health, Art. II.

Chapter 260

SEWAGE DISPOSAL SYSTEMS, INDIVIDUAL

- § 260-1. Adoption of standards.
- § 260-2. Title.
- § 260-3. Copies on file.
- § 260-4. Modifications and amendments to code.
- § 260-5. Permit required.
- § 260-6. Certificate of compliance.
- § 260-7. License for cleaning system; period of validity; revocation.
- § 260-8. Hearing.
- § 260-9. Stop work order.
- § 260-10. Fees and charges.
- § 260-11. Violations and penalties.

[HISTORY: Adopted by the Board of Health of the Borough of Butler as Ch. BH-V of the Revised General Ordinances of 1976. Amendments noted where applicable.]

GENERAL REFERENCES

[Sewerage Authority — See Ch. 50.](#)

[Land use — See Ch. 143.](#)

§ 260-1. Adoption of standards.

A code regulating the location, construction, use, maintenance and method of emptying or cleaning individual sewage disposal systems, the issuance of permits to locate, construct, empty or clean such systems, and fixing penalties for the violation thereof, subject to the deletions therefrom as set forth in § 260-4 of this chapter, is hereby adopted pursuant to N.J.S.A. 26:3-69.1 to 69.6. A copy of the code is annexed hereto and made a part hereof without inclusion of the text thereof herein.

§ 260-2. Title.

The code established and adopted by this chapter is described and commonly known as the "Individual Sewage Disposal System Code of New Jersey (1953)."

§ 260-3. Copies on file.

Three copies of the Individual Sewage Disposal System Code of New Jersey (1953) have been placed on file in the office of the Secretary, Clerk or other similar officer of this Board of Health upon the introduction of this chapter and will remain on file in such office for the use and examination of the public.

§ 260-4. Modifications and amendments to code.

Said Individual Sewage Disposal System Code of New Jersey (1953) is hereby amended and changed as follows:

- A. Subsection 5.6(e), Prefabricated metal, is hereby deleted from the code, and such subsection shall hereafter read as follows:

5.6. *Materials* — Septic tanks may be constructed of the following only:

- (a) Poured-in-place concrete.
- (b) Precast reinforced concrete.
- (c) Concrete block or equal.
- (d) Cinder block or equal.
- (e) Material approved by the administrative authority.

§ 260-5. Permit required.

No person shall locate, construct or alter any individual sewage disposal system until a permit for the location, construction or alteration of such sewage disposal system shall have been issued by the Board of Health.

§ 260-6. Certificate of compliance.

New individual disposal systems shall not be placed in operation, nor shall new dwellings or buildings or additions thereto be sold or occupied, which must rely on such a system for sewage disposal, until the Board of Health shall have issued a certificate indicating that such disposal system has been located and constructed in compliance with the terms of the permit issued and the requirements of the aforesaid code. Issuance of such certificate shall not be required for alteration to an existing individual sewage disposal system.

§ 260-7. License for cleaning system; period of validity; revocation.

- A. Persons shall not engage in the business of emptying or cleaning septic tanks, cesspools, privies or any place used for the reception or storage of human excrement who do not hold a license to engage in such business issued by the Board of Health. Such licenses shall be valid for a period of one year from the date of issuance, but may be renewed by the Board of Health. The license may be revoked for failure of the licensee to comply with the provisions of the code or any rule or ordinance of the Board of Health.
- B. The contents of any septic tank, cesspool, privy or other receptacle containing human excrement shall not be removed until a permit for such removal has been obtained from the Board of Health.

§ 260-8. Hearing.

In case any license, permit or certification required by this chapter is denied by the Board of Health, a hearing shall be held thereon before the Board of Health within 15 days after request therefor is made by the applicant, and, upon such hearing, the Board of Health shall affirm,

alter or rescind its previous determination and take action accordingly within 15 days after the date of such hearing.

§ 260-9. Stop work order.

The Board of Health may order all further work in and about any individual sewage disposal system which is being erected or installed in violation of the code to be stopped forthwith, except such work as shall be necessary to remedy such violation, and thereafter the work continued without any violation of any of the provisions of the code. After issuance of any such order and the service of a copy thereof upon any person connected with or working in and about the erection or installation of any such disposal system, or any part thereof, no further work shall be done thereon except as aforesaid.

§ 260-10. Fees and charges. [Amended 9-17-1985 by Ord. No. 85-15]

The following fees and charges are herewith established:

- A. For the issuance of a permit to locate and construct or alter an individual sewage disposal system: \$30.
- B. For the issuance of a permit to repair a defective residential sewage disposal system: \$25.
- C. For the issuance of a permit to locate and construct or alter the sewage disposal system of a commercial establishment: \$50.
- D. For the issuance of a permit to repair a defective sewage disposal system of a commercial establishment: \$30.
- E. For each reinspection of an individual sewage disposal system, or part thereof, caused by the failure of the permittee to locate and construct, alter or repair the same in accordance with the terms of the permit issued or the terms of aforesaid code, an inspection fee of \$2 shall be charged.
- F. For the issuance or a renewal of a license to a person or corporation engaged in the business of cleaning or emptying receptacles for the reception and storage of human excrement or other putrescible matter: \$15 for each vehicle or conveyance.
- G. For the issuance of a permit to clean or empty any receptacle used for the reception or storage of human excrement or other putrescible matter: \$20.

§ 260-11. Violations and penalties. ¹

- A. Maximum penalty. Any person violating any of the provisions of this chapter shall, upon conviction thereof, pay a penalty of not less than \$5, nor more than \$500 for each offense. Complaint shall be made in the Municipal Court of the Borough or before such other judicial officer having authority under the laws of the State of New Jersey. In

1. Editor's Note: Amended at time of adoption of Code; see Ch. 240, General Provisions, Board of Health, Art. II.

addition, the Court shall have the power to impose other penalties provided by N.J.S.A. 26:3-77 and N.J.S.A. 26:3-78.

- B. Separate violation. Except as otherwise provided, each and every day in which a violation of any of the provisions of this chapter exists shall constitute a separate violation.
- C. Collection of fees and penalties. All fees and penalties collected under any provision of this chapter shall be paid to the Borough Clerk.

Chapter 263

TATTOO PARLORS

§ 263-1. Definitions.

§ 263-2. License required; fees; requirements.

§ 263-3. Age restrictions; application for tattoo; information required; records.

§ 263-4. Sanitary requirements.

§ 263-5. Regulation of tattoo parlors.

§ 263-6. Violations and penalties.

[HISTORY: Adopted by the Board of Health of the Borough of Butler 11-22-1994 by Ord. No. BOH 94-02. Amendments noted where applicable.]

§ 263-1. Definitions.

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

CERTIFICATE OF INSPECTION — Written approval from the Health Officer or his authorized representative that said tattooing establishment has been inspected and meets all the terms of this chapter.

HEALTH OFFICER — The Butler Borough Public Health Officer or his authorized representative.

OPERATOR — Any individual, firm, company, corporation or association that owns or operates an establishment where tattooing is performed and any individual who performs or practices the art of tattooing on the person of another.

TATTOO ARTIST — One who engages in tattooing.

TATTOO, TATTOOED or TATTOOING — Any method of placing designs, letters, scrolls, figures, symbols or any marks under the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instruments designed to puncture the skin.

§ 263-2. License required; fees; requirements.

- A. It shall be unlawful for any person to engage in the business of operating an establishment where tattooing is performed without first obtaining a license from the Borough of Butler Board of Health to engage in such business, in accordance with the provisions hereof.
- B. An application for an initial license shall be accompanied by a fee in the amount of \$200. A change of ownership shall require a new application and license with payment of fees therefor. All applicants shall submit plans for the establishments to the Borough of Butler Board of Health prior to initiation or construction.

- C. The renewal license fee for engaging in the business of operating a tattoo establishment within the Borough of Butler shall be \$100 per year. All licenses shall expire on the last day of each calendar year. If renovations of the tattoo establishment occur, plans must be submitted to the Borough of Butler Board of Health, and the applicant will be required to comply with § 263-4A. The first license expiration date for renewal shall be December 31, 1994.
- D. All existing establishments will be considered renewal applications, provided that they apply for renewal of said license within one month after the effective date of this chapter. Establishments failing to comply within the specified time period will be considered new applicants and will be subject to the provisions of Subsection B of this section.

§ 263-3. Age restrictions; application for tattoo; information required; records.

- A. Age. It shall be a violation of this chapter for anyone or any tattoo business to tattoo an individual under 18 years of age without authorization signed by the parent or legal guardian and witnessed by the operator. The operator shall be responsible for maintaining the original consent form and copies of all consent information for two years beyond the recipient's 21st birthday. The operator shall obtain photo identification of the individual being tattooed.
- B. Each person wishing to receive a tattoo must first apply to the operator, on a form approved by the Borough of Butler Board of Health. A tattoo may then be applied no sooner than one hour after the time the application is received by the tattooist. If the applicant is suspected to be under the influence of alcohol, drugs or any other behavioral modifying substance, the operator must refuse the applicant.
- C. All records regarding tattoos are to be maintained for a minimum of two years. Information required for each applicant referred to in § 263-3B is to include the name, age, date of birth, address and telephone number of the applicant as well as the design and location of the tattoo.

§ 263-4. Sanitary requirements.

- A. Each tattoo facility shall have a bathroom accessible to the public and staff. Each bathroom shall be equipped with a commode and a sink, with the sink being connected to hot and cold running water. Soap and sanitary towels, or other approved hand-drying devices, shall be available at the sink at all times. Common towels are prohibited. In addition to the above, each tattooing cubicle or work station must be provided with a sink connected to hot and cold running water. This area shall also be provided with soap and appropriate hand-drying facilities.
- B. The chair or seat reserved for the person receiving the tattoo shall be of a material that is smooth and easily cleanable and constructed of material that is nonabsorbent. Any surfaces on the chair that become exposed to blood or body fluids must be cleaned and sanitized prior to use by the next customer.

- C. The work table or counter used by the tattoo artist shall be smooth and easily cleanable and constructed of material that is nonabsorbent. There shall be a covered junction between the table/counter and the wall if the table/counter is to be placed against the wall. This table/counter must be cleaned and sanitized, utilizing a method approved by the Borough of Butler Board of Health, between customers.
- D. The walls in the tattooing area shall be smooth and easily cleanable and constructed of nonabsorbent material.
- E. The floor in the tattooing area shall be of a durable material that is nonabsorbent and is smooth and easily cleanable. Floors shall be kept clean.
- F. Lighting within the tattoo area shall be adequate so as to provide a minimum of 100 footcandles in the areas.
- G. The work area reserved for the application of the tattoo shall be separated from other areas of the establishment by walls or durable partitions extending at least six feet in height and so designed to discourage any person other than the customer and the tattoo artist from being in the work area.
- H. Any surfaces in the establishment that become exposed to blood or body fluids must be cleaned and sanitized, utilizing a method approved by the Borough of Butler Board of Health.
- I. Products used in the cleaning, sanitizing and sterilizing procedures must be clearly marked and stored in an acceptable manner. Smaller working containers filled on-site from larger containers must be clearly marked with the name of the product.
- J. Proper waste receptacles shall be provided and waste disposed of at appropriate intervals.
- K. Medical waste shall be disposed of in compliance with N.J.A.C. 7:26-3A.1 and all laws, rules and regulations applicable to the disposal of medical waste. All medical waste disposal records must be maintained on the premises for a three-year period.

§ 263-5. Regulation of tattoo parlors.

- A. Tattoo artist.
 - (1) A Hepatitis B preexposure vaccination or proof of immunity is required for all tattoo artists. Any accidental needle stick injury shall be reported to the Borough of Butler Board of Health. If a person cannot obtain vaccination for medical reasons, he shall submit to the Borough of Butler Board of Health a letter from his physician certifying that the individual does not have Hepatitis B and the vaccination is contraindicated. This certification shall be annually renewed.
 - (2) All tattoo artists shall pass an examination showing knowledge of sterile technique and universal precautions to assure that infection and contagious disease shall not be spread by tattooing practices. Once a year, under the auspices of the Borough of Butler Board of Health, a course leading to certification shall be given for any person seeking to be a tattooist with the Borough of Butler.

- (3) Before working on each patron, each tattoo artist shall scrub and wash his/her hands thoroughly with hot water and antiseptic soap using his/her individual hand brush. Fingernails shall be kept clean and short.
- (4) Disposal vinyl or latex gloves shall be worn by the tattoo artists during tattoo preparation and application to prevent contact with blood or body fluids. Universal precautions as updated by the Centers for Disease Control and Prevention (CDC) should be followed. All materials shall be disposed of in accordance with § 263-5E(1) of this chapter after contact with each patron. Hands shall be washed immediately after removal of gloves. Any skin surface that has contact with blood shall be washed immediately.
- (5) Immediately after tattooing a patron, the tattooist shall advise the patron on the care of the tattoo and shall instruct the patron to consult a physician at the first sign of infection of the tattoo. Printed instructions regarding these points shall be given to each patron.
- (6) All infections resulting from the practice of tattooing which become known to the operator shall be promptly reported to the Health Officer by the person owning or operating the tattoo establishment or by the tattoo artist.

B. Skin preparation.

- (1) Tattooing shall be done only on a normal, healthy skin surface that is free of moles or infection.
- (2) Only razors with disposable blades shall be used for the skin preparation. Blades shall be disposed of according to § 263-5E(1) of this chapter after each use, and a new blade used for each patron.
- (3) Following shaving, the area shall be thoroughly cleansed and scrubbed with tincture of green soap or its equivalent and warm water. Before placing the design on the patron's skin, the area shall be treated with 70% alcohol and allowed to air dry.
- (4) Only petroleum jelly (USP or National Formulary) or antiseptic ointment shall be applied to the tattoo area prior to tattooing. The ointment shall be applied in a sanitary manner, disposing of the utensil after spreading. Collapsible tubes of ointment or jelly may also be used.

C. Tattooing.

- (1) Design stencils shall be thoroughly cleansed and rinsed in an approved germicidal solution for at least 20 minutes or disposed of following each use.
- (2) Only nontoxic dyes or pigment may be used. Premixed sterile materials are preferred. Premixed dyes shall be used with adulteration of the manufacturer's original formula. It shall be the responsibility of the operator to provide certification to the Borough of Butler Board of Health of the nontoxicity of the dyes or inks at the time of license application or renewal.

- (3) Single service or individual containers of dye or ink shall be used for each patron and the container disposed of immediately after completing the work on each patron. Any dye in which the needles were dipped shall not be used on another person.
- (4) The completed tattoo shall be washed with sterile gauze and a solution of tincture of green soap or its equivalent. The area shall be allowed to air dry, and antiseptic ointment shall be applied to spread with sterile gauze and sterile dressing attached.

D. Needles and Instruments.

- (1) Only single-service sterilized needles and needle bars shall be used for each patron.
- (2) If solder is used in manufacturing needles, needle bars or needle tubes, it must be free of lead.
- (3) Any needle that penetrates the skin of the tattoo artist shall be immediately disposed of in accordance with § 263-5E(1) of this chapter.
- (4) Needle tubes shall be soaked with soapy water, then scrubbed with a clean brush, then rinsed clean. Needle tubes shall be sterilized in accordance with § 263-5D(5), stored in sterile bags and maintained in a dry, closed area.
- (5) Each item to be sterilized shall be individually wrapped using indicator bags or strips.
- (6) Sterilization shall be by steam sterilization. The sterilizer shall be well maintained with a tight fitting gasket and a clean interior. The manufacturer's operating instructions and sterilization specifications shall be at hand. The sterilizer shall conform to the manufacturer's specifications with regard to temperature, pressure and time of sterilization cycle. Proper functioning of sterilization cycles shall be verified by the weekly use of biologic indicators (i.e., spore tests). A log book of these weekly test results shall be available, and a test may be required to be done during any inspection.
- (7) If the primary source of sterilization malfunctions, the Borough of Butler Board of Health shall be notified within 24 hours. In an emergent situation, the Borough of Butler Board of Health may approve alternate sterilization techniques.
- (8) Needles and bars shall not be bent or broken prior to disposal. Tattoo artists shall take precautions to prevent injuries from contaminated needles or tubes.

E. Disposal of wastes.

- (1) All medical waste shall be segregated from all other wastes. All used needles, needle bars or other tools used in the tattooing process, as well as gloves, gauze and other materials contaminated with blood or body fluids, shall be sterilized in accordance with § 263-5D(5) of this chapter and then discarded in a disposable rigid container. In lieu of this requirement, contracting with an authorized service for the disposal of infectious waste shall be acceptable.

- (2) All medical waste shall be disposed of in compliance with N.J.A.C. 7:26-3A.1 and all laws rules, and regulations applicable to the disposal of medical waste. All medical waste disposal records must be maintained on the premises for a three-year period.

§ 263-6. Violations and penalties.

- A. Dollars nor more than \$1,000 for each violation of this chapter payable to Borough of Butler Board of Health. Each day that the violation exists is considered to be a separate offense.
- B. Reasonable counsel fees incurred by the Borough of Butler Board of Health in the enforcement of this chapter shall be paid by the defendant. The amount of such reimbursable fees and costs shall be determined by the court hearing the matter.

Chapter 264

TOBACCO, SALE OF

§ 264-1. Definitions.

§ 264-2. Prohibition of tobacco sales to minors.

§ 264-3. Identification required.

§ 264-4. Prohibition of tobacco vending machines, tobacco vending machine sales, and self-service tobacco displays.

§ 264-5. Removal of tobacco vending machines and self-service tobacco displays.

§ 264-6. Enforcement.

§ 264-7. Severability.

§ 264-8. Violations and penalties.

§ 264-9. Tobacco 21 Age of Sales.

[HISTORY: Adopted by the Board of Health of the Borough of Butler 5-28-2003 by Ord. No. 2003-BOH-1; Amended 4/18/2018 by Ord. BH-2 2018 Amendments noted where applicable.]

§ 264-1. Definitions.

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

BAR — Any place licensed by the State of New Jersey to primarily sell at retail beer, wine, mixed spirit drink and spirits for consumption on the premises.

HEALTH DEPARTMENT — The Butler Borough Health Department and herein referred to as the "department."

HEALTH OFFICER — The Administrative Officer of the Butler Borough Health Department and/or his or her authorized representatives.

PERSON — An individual, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

SELF-SERVICE TOBACCO DISPLAY — Display of tobacco products intended to be purchased without the assistance of the proprietor or his/her employee.

TAVERN — Any place licensed by the State of New Jersey to primarily sell at retail beer, wine, mixed spirit drink and spirits for consumption on the premises.

TOBACCO PRODUCT — Any product made from the tobacco plant for the purpose of smoking, chewing, inhaling and other personal use including cigars, chewing tobacco, pipe tobacco, snuff and cigarettes in any form.

TOBACCO RETAILER — Any person or entity that operates a store, stand, booth, concession, or place at which sales of tobacco are made to purchasers for consumption or use. "Tobacco retailer" shall also mean a person or entity that owns, operates or uses a vending machine and/or a vending machine location.

VENDING MACHINE — Any automated, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses cigarette or other tobacco products.

VENDING MACHINE LOCATION — The room, enclosure, space or area where a tobacco vending machine is installed and operated.

§ 264-2. Prohibition of tobacco sales to minors.

- A. It shall be unlawful to sell or distribute tobacco to, or for the benefit of, a person under 18 years of age.
- B. Sign requirements. The following six-inch by three-inch sign in bold letters at least one-quarter-inch high shall be conspicuously posted at the point of display of tobacco products and at the point of sale. The sign shall read as follows:

A person who sells or offers to sell a tobacco product to a person under 18 years of age shall pay a penalty of up to \$1,000 and may be subject to a license suspension or revocation. Proof of age may be required for purchase.

- C. A person who sells, distributes, or offers to sell a tobacco product to a person under 18 years of age may be prosecuted in accordance with state and local ordinances.

§ 264-3. Identification required.

It shall be unlawful for a tobacco retailer to sell or permit to be sold tobacco to any individual without requesting and examining identification from the purchaser conclusively establishing the purchaser's age as 18 years or greater, unless the seller has some other conclusive basis for determining the buyer is over the age of 18 years.

§ 264-4. Prohibition of tobacco vending machines, tobacco vending machine sales, and self-service tobacco displays.

- A. It shall be unlawful to offer for sale tobacco through a tobacco vending machine in the Borough of Butler.
- B. Self-service tobacco displays are prohibited in all retail establishments.

§ 264-5. Removal of tobacco vending machines and self-service tobacco displays.

All tobacco vending machines and self-service tobacco displays made unlawful by the terms of this chapter shall be removed within 30 days from the effective date of this chapter.

§ 264-6. Enforcement.

- A. Whenever the Health Officer, or his/her designee, reasonably believes there exists a violation of this chapter, he/she may issue a summons and complaint not later than 90 days after discovery of the alleged violation. The complaint shall be written and shall state with reasonable particularity the nature of the violation, including reference to the article and section of this chapter.

- B. The Health Officer, or his designee, or any other person charged with enforcement of this chapter, after giving proper identification, may inspect any matter, thing, premises, place, person, record vehicle, incident, or event as may be consistent with state and/or federal law.
- C. It shall be unlawful for any person to interfere or otherwise obstruct the Health Officer, or his designee, who may request the assistance of the Butler Borough Police Department where necessary to execute his or her official duty in a manner prescribed by law.
- D. Citizens may file with the Butler Health Department complaints against violators of this chapter.

§ 264-7. Severability.

If any chapter, section, subsection or paragraph of this chapter is declared to be unconstitutional, invalid or inoperative, in whole or in part by a court of competent jurisdiction, such chapter, section, subsection or paragraph shall, to the extent that it is not unconstitutional, invalid or inoperative, remain in full force and effect, and no such determination shall be deemed to invalidate the remaining chapters, sections, subsections or paragraphs of this chapter.

§ 264-8. Violations and penalties.

- A. Penalties for the sale and distribution of tobacco to persons under the age of 18 shall be as defined in P.L. 1995, Chapter 304.¹
- B. Persons violating all other sections of this chapter, unless otherwise provided by law, statute or ordinance, shall upon conviction thereof, pay a penalty of not less than \$100 nor more than \$1,000 for each offense. Complaints shall be made in the Municipal Court of Butler Borough or before such other judicial officer having authority under the laws of the State of New Jersey.
- C. Each sale or distribution of tobacco to a minor or otherwise in violation of this chapter shall constitute a separate violation.

§ 264-9. Violations and penalties.

- I. Purpose.** The purpose of this ordinance is to prohibit the sale, furnishing or giving of tobacco and nicotine delivery products to persons under the age of 21, and to provide for the licensure of all nicotine delivery products. The Butler Borough recognizes the dangers and health risks associated with teenagers and young persons who start smoking, as set forth in various studies conducted by the United State Department of Health and surveys conducted by other entities. Butler Borough has concluded that it is appropriate to prohibit the sale, furnishing or giving of tobacco and nicotine delivery products within the Butler Borough to persons under the age of twenty-one (21).

II. Findings. The Butler Borough Board of Health adopts the following findings with respect to this section:

- a) Cigarette smoking causes about one out of every five deaths in the U.S. every year. (U.S. Centers for Disease Control and Prevention, 2014).
- b) 90% of all tobacco users start before the age of 21. (Campaign for Tobacco-Free Kids, 2015).
- c) Every day, more than 1,200 people in this country die due to smoking. (U.S. Surgeon General, 2016)
- d) The younger a child begins smoking, the more likely it is that he/she will become a heavy smoker as an adult. (Surgeon General's Report, 1994)
- e) As of 2015, the American Academy of Pediatrics strongly recommends the minimum age to purchase tobacco products, including e-cigarettes, be increased to age 21.
- f) Raising the minimum age of legal access to tobacco products to at least 21 years old would significantly reduce smoking rates, resulting in 223,000 fewer premature deaths, 50,000 fewer deaths from lung cancer, and 4.2 million fewer years of life lost for persons born between 2000 and 2019. (Institute of Medicine, 2015).
- g) 75% of U.S. adults support raising the age of tobacco product sales to age 21 (U.S. Centers for Disease Control and Prevention, 2015)
- h) Teens that use e-cigarettes have a willingness to start smoking conventional cigarettes, more so than teens that do not use e-cigarettes. (Tobacco Control Journal, 2015).
- i) E-cigarette use amongst high school students has tripled from 2013 to 2014. (U.S. Centers for Disease Control and Prevention, 2015).

III. Definitions

As uses in this section:

Borough shall mean Butler Borough.

Electronic Smoking Device shall mean any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, e-cigarillo, vape pen, or under any other product name or descriptor.

Health Department shall mean the Department of Health of Butler Borough.

Health Officer shall mean the Health Officer of Butler Borough or his/her designee.

License shall mean a license issued by the Borough to a proprietor under the provisions hereof.

Minor shall mean any male or female under the age of eighteen (18) years of age.

Liquor license shall mean any license to sell or distribute alcoholic beverages issued by the Borough pursuant to the laws of the State of New Jersey.

Nicotine Delivery Product shall mean any product that is designed to deliver nicotine, nicotine vapor or non-nicotine vapor, including but not limited to, any type of electronic smoking device defined as an electronic or other powered device that can be used to deliver nicotine or other substances to the person inhaling from the device, including but not limited to, an electronic cigarette, cigar, cigarillo or pipe, or any cartridge or other component of the device or related product, including but not limited to, any substances used in such devices such as liquids, gels or powders, or any forms of tobacco, but excluding United States Food and Drug Administration approved nicotine patches or nicotine chewing gum.

Person shall mean an individual, partnership, corporation, cooperative association, personal representative, receiver, trustee, assignee or any other legal entity.

Public place shall mean any building or enclosed structure open to the general public and any street, road, sidewalk, walkway, park or open space located within the Borough and maintained for use by the general public.

Smoking means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette or pipe, or any other lighted or heated matter or substance which contains tobacco, plant product or any other matter that can be smoked which is intended for inhaling and exhaling of smoke, including hookahs and marijuana, whether natural or synthetic, in any manner or in any form. Smoking also includes the use of an electronic smoking device which creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this Article.

Tobacco shall mean any product made from the tobacco plant for the purpose of including but not limited to smoking, chewing, inhaling or other use, including but not limited to cigars, chewing tobacco, pipe tobacco, snuff, shisha and cigarettes in any form, or shall mean any other matter or substance which can be smoked.

Tobacco retailer shall mean any person that operates a store, stand, booth, concession or place at which sales of tobacco are made including a person that owns, operates or uses a vending machine.

Vapor/Vape Shops and/or Store is a retailer that either devotes 25% or more of floor area or display area to, or derives 75% or more of gross sales receipts from the sale or exchange of Electronic Smoking Devices and/or Electronic Smoking Device Paraphernalia.

Vending machine shall mean any automated self-service device which, upon insertion of money, tokens or other form of payment, dispenses a tobacco product or nicotine delivery product.

IV. Prohibition of Tobacco Product and Nicotine Delivery Product Sales to Persons under Age 21.

- a. No person shall sell, distribute or give tobacco or nicotine delivery products in the Borough of Butler unless an employee of the establishment controls the sale of such products. A person may only sell tobacco or nicotine delivery products in a direct, face-to-face exchange between the retailer and the consumer. Self-service displays and all vending machines of tobacco or nicotine delivery products shall be prohibited.
- b. No person shall sell, distribute or give tobacco or nicotine delivery products to any person under the age of 21 years.
- c. No person or tobacco retailer selling tobacco or nicotine delivery products shall allow the retailer, employee or any other person to sell, distribute or give such products until the retailer, employee or other person as read the Borough of Butler Ordinances and State laws pertaining to the sale or distribution of tobacco and nicotine delivery products and has signed a statement that they have read such ordinances and State laws. Such form statement will be supplied by the Health Department and all signed original statements shall be kept on file by the tobacco retailer and made immediately available at all times for review by the Health Department. All retailers shall be in compliance with this provision by the effective date noted in Section 10.

V. Identification Required.

- a. Any retailer, employee or other person selling, distributing or giving tobacco or nicotine delivery products shall verify, by means of government-issued photograph identification containing the bearer's date of birth, that no purchaser of tobacco or nicotine containing products is younger than 21 years of age. No such verification is required for any purchaser over the age of 26. No retailer, employee or other person shall sell, distribute or give tobacco or nicotine delivery products to a purchaser less than 21 years of age who has a note or any form of communication from any person.

VI. Sign Requirement.

- a. The following six (6) inch by eight (8) inch sign shall be posted in a conspicuous place near each cash register in all retail establishments which sell tobacco products and/or nicotine delivery products:
SALE, DISTRIBUTION OR GIVING OF TOBACCO PRODUCTS OR NICOTINE DELIVERY PRODUCTS TO PERSONS UNDER THE AGE OF 21 IS PROBIBITED BY LAW. LEGAL PROOF OF AGE MUST BE SHOWN. A PERSON WHO SELLS OR OFFERS TO SELL A TOBACCO PRODUCT OR A NICOTINE DELIVERY PRODUCT TO A PERSON UNDER 21 YEARS OF AGE MAY BE PROSECUTED IN ACCORDANCE WITH STATE STATUTES AND BUTLER BOROUGH ORDINANCES. IF YOU ARE AWARE OF ANY RETAILER WHO IS VIOLATING THIS SECTION OF THE LAW, PLEASE CONTACT THE BUTLER HEALTH DEPARTMENT AT 973- 838-7200, EXT. 237.

VII. Restriction of Tobacco Vending Machines and Sales.

- a. Self-service displays and vending machines of tobacco or nicotine delivery products shall be prohibited.

VIII. Other Prohibited Activities

- a. Except as provided in Section (b) of this section, smoking inside a tobacco retail establishment is prohibited.
- b. Smoking (tasting) inside a tobacco retail establishment is only for pre-purchase sampling of a cigar or other expensive tobacco product, prior to making a multi-unit purchase. Smoking (tasting) inside a tobacco retail establishment shall be limited to no more than two (2) minutes prior to making a multi-unit purchase from the tobacco retail establishment.
- c. Seating, chairs, TVs, food/beverage menus and signage that condones continued smoking beyond pre-purchase sampling.
- d. Smoking in exterior areas that can result in migration, seepage or recirculation of smoke to an indoor public place or a workplace at which smoking is prohibited. As such, all outdoor smoking shall be limited to 25 feet outside entrances, operable windows and ventilation systems of enclosed areas.
- e. Private parties, food or drink, card games or gambling, game of chance, outdoor seating and alcoholic beverage.

IX. License Required for Electronic Smoking Device Retail Establishment.

- a. No proprietor shall operate an electronic smoking device retail establishment in the Borough of Butler unless such proprietor has registered the establishment with the Board of Health and has received a license from the Health Officer.
- b. A person purchasing an electronic smoking device retail establishment after the effective date of this chapter shall apply for a new license no later than ten (10) days prior to commencing operation under new ownership. Operators of an electronic smoking device retail establishment are required to notify the Board of Health of the impending sale of the electronic smoking device retail establishment no later than thirty (30) days prior to the sale.
- c. All licenses for an electronic smoking device retail establishment shall be renewed by January 31 each year of operation.
- d. No license is transferable by sale or otherwise.
- e. The license shall be posted in a conspicuous place in such establishment or, if an itinerant establishment, shall be readily available for display.
- f. The funds collected by licensing such establishments shall be used to fund the development and maintenance of a Tobacco Age of Sale Enforcement Program and other smoking cessation, prevention and control programs.

X. License Fee.

- a. The initial license fee for an electronic smoking device retail establishment shall be One Thousand Dollars (\$1,000.00);
- b. To renew a license for an electronic smoking device retail establishment, the fee shall be Seven Hundred and Fifty Dollars (\$750.00).

XI. Enforcement.

- a. Whenever the Health Officer, or his or her designee, or a Police Officer of Butler Borough reasonably believes there exists a violation of this section, such officer shall issue a summons and complaint not later than 15 days after discovery of the alleged violation. The complaint shall be written and shall state with reasonable particularity the nature of the violation, including reference to the subsection(s) of this section alleged to have been violated. The complaint shall be delivered personally or send via certified mail to the alleged violator.
- b. The Health Officer, his/her designee or a Police Officer of the Borough, after giving proper identification, and if no search or other warrant is required by law, may summarily inspect any matter, thing, premise, place, person, record, incident or event as necessary to enforce the provisions of this section.
- c. It shall be unlawful for any person to willfully oppose, or otherwise act to interfere with or obstruct the Health Officer or his/her designee or any Police Officer in the performance of duties under this section. The Health Officer or designee may request the assistance of the Police Department when necessary to execute his or her official duty in the manner prescribed by law.
- d. Citizens may bring complaints against violators of this section.

XII. Enforcement Against Individuals.

- a. A person having control of an indoor public place or workplace shall order a person smoking in violation of the Code and this chapter (person smoking illegally) to comply with the Code and this chapter, and may elect to provide the person smoking illegally with a copy of the notice provided at Appendix B, incorporated herein by reference.
- b. If, after having been ordered to comply with the Code and this chapter in accordance with Section (a), above, a person smoking illegally continues to violate the Code and this chapter, the person having control of the indoor public place or workplace:
 1. Shall order the departure and removal of the person smoking illegally from the indoor public place or workplace; and
 2. In the discretion of the person having control of the indoor public place or workplace, s/he may request the assistance of law enforcement or peace officers with jurisdiction over the indoor public place or workplace to accomplish this departure and removal.
- c. A person may file a complaint against a person smoking illegally in accordance with N.J.S.A. 26:3D-62 by:
 1. Contacting the local health agency with jurisdiction over the indoor public place or workplace and by adhering to complaint procedures each local health agency shall establish;
 2. Filing a complaint directly with the municipal court with jurisdiction over the establishment, or
 3. Filing the form of complaint at chapter Appendix C, incorporated herein by reference, with the Indoor Environments Program.
- d. In addition to the fines and penalties listed in Item 14: Penalties, this section shall not be construed to impair the ability of Borough of Butler Police Department or Health Department with jurisdiction to charge a person under any other applicable law, including N.J.S.A. 2C:33-13.

XIII. Enforcement Against Person Having Control of an Indoor Public Place or Workplace.

- a. Any person may file a complaint against a person having control of an indoor public place or workplace who violates or fails or refuses to comply with or enforce the Code and this chapter by:
 1. Contacting the local health agency with jurisdiction over the indoor public place or workplace and by adhering to complaint procedures each local health agency shall establish;
 2. Filing a complaint directly with the municipal court with jurisdiction over the establishment, or
 3. Filing the form of complaint at Appendix C, with the New Jersey Department of Health Indoor Environments Program.

XIV. Penalties.

- a. Unless otherwise provided by law, statute or ordinance, any person violating any provision of this section shall, upon conviction thereof, pay a fine of not less than \$250 for the first violation, not less than \$500 for the second violation, and not less than \$1,000 for the third and each subsequent violation. ***Each violation, and every day in which a violation occurs, shall constitute a separate violation.*** The complaint shall be made in the Municipal Court or before such other judicial officer having authority under the laws of the State of New Jersey.
- b. In addition any violator of this section shall be subject to having any Borough License, held by the violator, suspended, revoked or fined. No such action may be taken unless the requirements of due process are satisfied.
- c. Any person who continually violates this section may also be charged in the Municipal Court or in Superior Court with maintaining a nuisance.
- d. These penalties are in addition to any penalties that may be imposed including but not limited to penalties imposed by the New Jersey Code of Juvenile Justice, N.J.S.A. 2A:170-51, et seq. and N.J.S.A. 2C:33-13.1, et seq.
- e. Each sale, furnishing or giving of tobacco and or nicotine delivery product to any person under the age of 21 shall constitute a separate violation. Each violation, and every day in which a violation occurs, shall constitute a separate violation.

Fines and sanctions associated with this section shall be dedicated and forwarded to the Health Department to be used in connection with education and enforcement of this ordinance

1. Editor's Note: See now N.J.S.A. 2C:33-13.1 and N.J.S.A. 2A:170-51.4.

Chapter 266

Massage, Bodywork and Somatic Therapy Establishments

- § 266-1. Definitions.
- § 266-2. Conformance with regulations; more restrictive laws control.
- § 266-3. License required and Hours of Operation.
- § 266-4. Application for establishment license; requirements.
- § 266-5. Approvals required prior to hiring of new employees.
- § 266-6. Criminal background check required.
- § 266-7. Approval of Chief of Police required.
- § 266-8. Approval of Health Officer required.
- § 266-9. Other Borough approvals required.
- § 266-10. Issuance of establishment license; fees; photographs.
- § 266-11. Display of establishment license and therapist license.
- § 266-12. Transferability of license.
- § 266-13. Plans required prior to construction, alterations, or renovation; approval.
- § 266-14. Operating and sanitary requirements.
- § 266-15. Sleeping quarters.
- § 266-16. Prohibited Acts.
- § 266-17. Exceptions.
- § 266-18. Suspension or revocation of license.
- § 266-19. Inspections; access to premise.
- § 266-20. Inspection placard; posting of placard.
- § 266-21. Reinspection Fee.
- § 266-22. Violations and penalties.
- § 266-23. Enforcement agent.

[HISTORY: Adopted by the Board of Health of the Borough of Butler 4/18/2018 by Ord. No. 2018-BH1-18; Amended 12/5/2018 by Ord. BH3-18. Amendments noted where applicable.]

266-1. Definitions

- A. *The Board* means The Board of Health of Butler Borough, or its duly authorized agent officer or inspector.
- B. *Employed* means any person who is hired to work in the licensed establishment whether for compensation or not.
- C. *Massage, Bodywork and Somatic Therapies* means any system of activity of structured touch which includes, but is not limited to, holding, applying pressure, positioning and mobilizing soft tissue of the body by manual technique and use of visual, kinesthetic, and palpating skills to assess the body for purposes of applying therapeutic massage, bodywork or somatic principles. Such application may include, but is not limited to, the use of therapies such as heliotherapy or hydrotherapy, the use of moist hot and cold external applications, external application of herbal or topical preparations not classified as prescription drugs, analysis of posture, movement and neural myofascial education, and education in self-care and stress management. Massage, bodywork and somatic therapies do not include the diagnosis or treatment of illness, disease, impairment or disability. Nor shall it include any legitimate massage therapy provided by any health care provider licensed by the State of New Jersey to perform that service, or to barbershops, beauty parlors or nail salons in which massage is administered to the scalp, face, neck, shoulders, hands or feet.

- D. *Massage, Bodywork and Somatic Therapist*** means any person certified pursuant to the provisions of the Massage, Bodywork and Somatic Therapist Certification Act, N.J.S.A. 45:11-53.
- E. *Massage, Bodywork and Somatic Therapy Establishment*** means an establishment or business operation wherein massage, bodywork or somatic therapy is administered or permitted to be administered for any form of consideration.

266-2. Conformance with regulations; more restrictive laws control

- A.** No person, firm, corporation or other entity shall operate any establishment or utilize any premises located in Butler Borough as or for a massage, bodywork and somatic therapy establishment without complying with the requirements of this Article, as well as the regulations of the State of New Jersey, including N.J.S.A. 45:11-53 through N.J.S.A. 45:11-79 and N.J.A.C. 13:37A-1.1 et seq., as the same may be amended and supplemented from time to time.
- B.** In all allied matters that are regulated by the laws of the State of New Jersey, the provisions of state law shall control where the requirements of state law are more stringent or restrictive than the regulations set forth in this Article. This Article shall control in all cases where the state law requirements are less stringent or less restrictive than the regulations herein contained.

266-3. License required and Hours of Operation

- A.** No person, firm, corporation or other entity shall operate a massage, bodywork or somatic therapy establishment in Butler Borough, or utilize any premises in Butler Borough to provide massage, bodywork or somatic therapy, unless such person has applied for and obtained a license for such establishment from the Butler Borough Board of Health in accordance with the terms and provisions of this Article.
- B.** No person shall practice massage or related therapies as a massage, bodywork or somatic therapist, employee or otherwise, unless he or she has a valid and subsisting massage, bodywork and somatic therapist's license issued to him or her by the New Jersey Board of Massage and Body Work Therapy, pursuant to the terms and provisions of N.J.S.A. 45:11-53 through N.J.S.A. 45:11-79 and N.J.A.C. 13:37A-1.1 et seq., as the same may be amended and supplemented from time to time.
- C.** No person, firm, corporation or other entity shall operate a massage, bodywork or somatic therapy establishment in Butler Borough, or utilize any premise in Butler Borough to provide message, bodywork or somatic therapy, before 7:00am or later than 9:00pm.

266-4. Application for establishment license; requirements

- A. Any person desiring a massage, bodywork and somatic therapy establishment license shall file a written application with the Health Department or designated alternate department on a form to be furnished by the Health Department and available at the Health office. The completed application shall be returned to the Health Department or designated alternate department for processing. The application form for each initial license and any subsequent renewal thereof shall contain the following information:
1. The business name and type of ownership of the business, i.e., whether individual sole proprietorship, partnership, limited liability partnership or company, corporation or any other form of business organization.
 2. The trade name under which the business is to be conducted.
 3. The address and all telephone numbers associated with the establishment, including facsimile and email address, where business is to be conducted.
 4. Proof of comprehensive general liability insurance in the minimum amount of \$1,000,000.00 per occurrence and professional liability in the minimum amount of \$1,000,000.00.
 5. The following personal information shall be provided concerning the applicant, if a sole proprietorship, the individual; if a corporation, each stockholder holding 10% or more the stock of the corporation and each officer and each director; if an LLC or LLP, each member or partner, including limited members or partners; if a partnership, each partner, including limited partners; and the manager or other person principally in charge of the operation of the establishment:
 - a. The name, nickname, and/or alias, complete residence address and residence telephone number of such person(s).
 - b. The two previous residential addresses immediately prior to the present residential address of the person.
 - c. Copy of a current driver's license or other government issued photo ID. Any copy of a driver's license or other photo identification accompanying an application for establishment license shall be held in a locked file by the Health Department or designated alternate department.
 - d. Three front-face portrait photographs taken within thirty (30) days of the date of the filing of the application, which shall be approximately two inches by two inches in size (passport size). The applicant shall legibly print the full legal name and any nicknames or aliases of the individual in the photograph on the rear side of each photograph submitted.
 - e. The massage therapy or similar business history and experience, including, but not limited to, whether or not such person(s) has previously operated in this or another municipality or state under a license or permit or has had such license or permit denied, revoked or suspended and the reason therefore and the business activities or occupations subsequent to such action or denial, suspension or revocation.

- f. All prior arrests, criminal convictions, and offense convictions other than misdemeanor traffic violations, fully disclosing the jurisdiction in which the arrest or conviction occurred along with details on the offense for the arrest or conviction and circumstances thereof.
 6. A copy of a current State of New Jersey Massage & Bodywork Employer Registration issued by the New Jersey Board of Massage and Body Work Therapy.
- B.** In addition to the aforesaid application items, the applicant shall provide the following items for all current therapists and employees of the establishment with each application for an initial license and any subsequent renewal thereof:
1. A complete list of the names, including nicknames, and/or aliases, and residence addresses of all massage, bodywork and somatic therapists and all other employees of the establishment and the name and residence address of the manager or other person principally in charge of the operation of the establishment on a form included in the Butler Borough Board of Health application and available at the Board of Health office. It shall be the responsibility of the owner/operator to maintain an updated employee list and provide same to the Board of Health office. The Board of Health shall be notified in writing within seven (7) days, transmitted by regular mail, email or facsimile, of any and all changes to the list. Upon receipt of an updated employee list, the Board of Health shall submit a copy of the list to the Health Officer and the Chief of Police. The licensee shall maintain a copy of the list on the licensed premises at all times and make the list available during all inspections to the Health Officer or his designated agent and to any Borough Police Officer or Borough Official.
 2. Copies of all massage, bodywork, and somatic therapist's license(s)/certification(s) issued by the New Jersey Board of Massage & Body Work Therapy for all employees of the establishment.
 3. Copies of a driver's license, passport, or other government-issued photograph identification for each employee and massage, bodywork, and somatic therapists employed by the establishment. The copies shall be of such quality so that the employee or therapist is readily identifiable from the photograph. Any copy of a driver's license or other photo identification accompanying an application for establishment license shall be held in a locked file by the Health Department or designated alternate department.
 4. Three front-face portrait photographs taken within thirty (30) days of the date of the filing of the application for all employees and massage, bodywork and somatic therapists of the establishment which shall be approximately two inches by two inches in size (passport size). The applicant shall legibly print the full legal name, any nicknames or aliases, and date of birth of the individual in the photograph on the rear side of each photograph submitted.
 5. Disclosure of all prior arrests, criminal convictions, and offense convictions other than misdemeanor traffic violations for prospective employee, fully disclosing the jurisdiction in which the arrest or conviction occurred along with details on the offense for the arrest or conviction and circumstances thereof.

6. A. notarized statement attached to the list required in (4) above shall be provided indicating that all massage, bodywork, and somatic therapists employed or to be employed by the establishment or otherwise permitted to work at the establishment have been certified by the State of New Jersey to N.J.S.A. 45:11-53 through N.J.S.A. 45:11-79 and N.J.A.C. 13:37A-1.1 et seq., as the same from time to time may be amended and supplemented et seq. The applicant shall submit to the Board of Health an amended or new notarized statement at the time any new massage, bodywork and somatic therapist is hired.

266-5. Approvals required prior to hiring of new employees

- A. Prior to hiring any new therapists or employees not identified on the initial license application or renewal thereof, the licensee shall submit the following items for the prospective employee to the Board of Health office:
 1. The names, including nicknames, and/or aliases, and residence addresses of the prospective employee on a form provided by the Board of Health and available at the Board of Health office.
 2. Copies of all massage, bodywork, and somatic therapist's license issued by the New Jersey Board of Massage & Body Work Therapy for any prospective massage, bodywork, or somatic therapist.
 3. Copies of a driver's license, passport, or other government-issued photograph identification for the prospective employee. The copy shall be of such quality so that the prospective employee is readily identifiable from the photograph. Any copy of a driver's license or other photo identification accompanying an application for establishment license shall be held in a locked file by the Health Department or designated alternate department.
 4. Three front-face portrait photographs taken within thirty (30) days of the date of the filing of the application for all prospective employees and massage, bodywork and somatic therapists of the establishment, which shall be approximately two inches by two inches in size (passport size). The applicant shall legibly print the full legal name, any nicknames or aliases, and date of birth of the individual in the photograph on the rear side of each photograph submitted.
 5. Disclosure of all prior arrests, criminal convictions, and offense convictions other than misdemeanor traffic violations for prospective employee, fully disclosing the jurisdiction in which the arrest or conviction occurred along with details on the offense for the arrest or conviction and circumstances thereof.

266-6. Criminal background check required

- A.** Upon filing an application for an initial license or renewal thereof with the Board of Health office, the applicant - if a sole proprietorship, the individual; if a corporation, each stockholder holding 10% or more the stock of the corporation and each officer and each director; if an LLC or LLP, each member or partner, including limited members or partners; if a partnership, each partner, including limited partners; and the manager or other person principally in charge of the operation of the establishment - shall respond to the Borough's Police Department with a current driver's license or other government issued photo identification. The applicant shall be provided with a fingerprint form from a fingerprint vendor authorized by the State of New Jersey. The applicant, at the applicant's expense, shall respond to the authorized fingerprint vendor's location for a fingerprint check.
- B.** Upon filing an application for an initial license or renewal thereof with the Board of Health office, all massage, bodywork, or somatic therapists, and other employees of the establishment shall respond to the Borough's Police Department with a current driver's license or other government issued photo identification. The therapist or other employee shall be provided with a fingerprint form from a fingerprint vendor authorized by the State of New Jersey. The employee, at the employee's or the applicant's expense, shall respond to the authorized fingerprint vendor's location for a fingerprint check.
- C.** Prior to being employed as a massage, bodywork, or somatic therapist or in any other capacity by a licensed establishment, the prospective employee shall be required to respond to the Borough's Police Department with a current driver's license or other government issued photo identification. The prospective employee shall be provided with a fingerprint form from a fingerprint vendor authorized by the State of New Jersey. The prospective employee, at the prospective employee's or the applicant's expense, shall respond to the authorized fingerprint vendor's location for a fingerprint check. No person shall be employed until the background check and approval has been granted by the Chief of Police as set forth in Article 266-7 B.
- D.** Any copy of a driver's license or other photo identification accompanying an application for establishment license shall be held in a locked file by the Health Department or designated alternate department.

266-7. Approval of Chief of Police required

- A.** Upon receipt of a complete application for an initial license or subsequent renewal of a license, the Health Department shall provide a duplicate of the application and all pertinent documents to the Chief of Police, who shall make or cause to be made an investigation including review of all employee background checks as set forth in App. A. 13-7.
- B.** Upon completion of the criminal background investigation, the Chief of Police shall endorse the application noting approval or disapproval and the forward the application to the Health Department with supporting information. Disapproval by the Chief of Police shall be based on information disclosed by the investigation and criminal background check which indicates that the issuance of an establishment license would not be in the best interest of the public.

266-8. Approval of Health Officer required

- A.** Upon receipt of approval by the Chief of Police, the Health Department or designated alternate department shall route a duplicate of the same application to the Borough Construction Official and Subcode Officials, Borough Clerk, Borough Zoning Officer, Fire Prevention Official, and any other pertinent Borough Officials and Boards.
- B.** The Health Officer or his designated agent shall review the application and make or cause to be made an inspection of the premises to be licensed to ensure compliance with the sanitary and operational requirements set forth in this Article and all other applicable Borough and State of New Jersey regulations. Upon completion of the inspection of the premises to be licensed, the Health Officer or his designated agent shall endorse the application noting approval or disapproval and shall file the application in the Health Department with supporting information. Disapproval by the Health Officer or his designated agent shall be based on findings disclosed by the inspection that the premises to be licensed does not comply with the sanitary and/or operational requirements set forth in this Article and all other applicable Borough and State of New Jersey regulations.

266-9. Other Borough approvals required

- A.** In the event the applicant requires Board of Adjustment approval of an application for development in accordance with the laws of the State of New Jersey, upon completion of the Board of Adjustment hearing and procedures on the application for development as required by law, the Board of Adjustment shall notify the Board of Health of the Board's decision on the application for development.
- B.** The Borough Zoning Officer, Construction Official and Subcode Officials, Fire Prevention Official, and any other pertinent Borough Officials shall review the application and make or cause to be made an inspection of the premises to be licensed to ensure compliance with applicable Borough and State of New Jersey laws and regulations.
- C.** Upon completion of the inspection of the premises to be licensed, the Borough Zoning Officer, Construction Official and Subcode Officials, Fire Prevention Official, and any other pertinent Borough Officials and Boards shall endorse the application noting approval or disapproval and then forward the application to the Borough Clerk with supporting information. Disapproval by the Zoning Officer, Construction Official and Subcode Officials, Fire Prevention Official, and any other pertinent Borough Officials shall be based on findings disclosed by the inspection that the premises to be licensed does not comply with applicable Borough and State of New Jersey laws and regulations.
- D.** The Health Department and Fire Bureau, shall, as necessary, make an inspection of each massage, bodywork and somatic therapy establishment granted a license under the provisions of this chapter for the purpose of determining whether the provisions of this chapter and/or applicable rules, regulations and laws are being complied with. Such inspections shall be made at reasonable times and in a reasonable manner. It shall be unlawful for any licensee to fail to allow such inspection officer access to the premises or to hinder such officer in any manner.

266-10. Issuance of establishment license; fees; photographs

A. Upon receipt of application written approvals by the Board of Health from all officials set forth in 266-8, 266-9 and 266-10 and upon receipt of the written approval of the license by the Borough Health Officer or his designated agent, the applicant shall be issued a massage, bodywork and somatic therapy establishment license, which shall be effective for the period January 1 through December 31. Issuance of the license shall be contingent upon the applicant providing payment to Board of Health office to cover the required license fee. License fees shall be as follows:

1. Initial establishment license obtained January 1 to June 30:	\$500.00
2. Initial establishment license obtained July 1 or later:	\$250.00
3. Annual establishment license renewal:	\$500.00
4. Late fee (for applications received January 1 or later:	\$100.00

B. Upon issuance of the license, the Board of Health shall retain one set of the three photographs for all individuals submitted by the licensee at the time of application. The second set of photographs shall be provided to the Chief of Police and the third set of photographs shall be provided to the Health Officer or his designated agent.

266-11. Display of establishment license and therapist license

A. The most current establishment license issued under this article shall be displayed in a conspicuous place at all times near the public entrance to the establishment and at eye-level where it may be viewed by all who enter the establishment.

B. All licenses issued by New Jersey Board of Massage & Body Work Therapy to massage, bodywork, and somatic therapists employed by the establishment or otherwise permitted to work at the establishment shall be displayed in accordance with the provisions of N.J.A.C. 13:37A-3.4, as the same may be amended and supplemented from time to time.

266-12. Transferability of license

A. Any license granted under this Article shall only be valid for the sole proprietorship, partnership, limited liability partnership or company, corporation, or any other form of business organization to which it was granted and shall not be transferable.

B. Any license granted under this Article shall only be valid for the premises for which it was issued and shall not be transferable to another premises.

266-13. Plans required prior to construction, alterations, or renovation; approval.

- A. Prior to the initial construction and or any subsequent alteration or renovation of an establishment licensed under this article, a floor plan detailing the proposed layout of all equipment and areas shall be submitted to the Borough's Health Department by the applicant. Such plans shall be drawn to scale.
- B. Upon receipt of such plans, the Borough's Health Officer or his designated agent shall review the plan for compliance with this Article within sixty (60) days of receipt.
- C. The applicant shall pay the following plan review fees to the Borough's Health Department simultaneously with the submission of the plans to be reviewed:
 - 1. Fee for Health's Officer's initial review of a plan: \$150.00
 - 2. Fee for Health Officer's review of any subsequent revised plan: \$100.00
- D. No construction, alterations, or renovations shall occur until approval of said plans has been provided by the Borough's Health Officer or his designated agent.
- E. No construction, alterations, or renovations shall occur until the said plans have also been approved by the Borough Zoning Officer, Construction Official or other departments under all applicable Borough Ordinances, and the Planning Board or Board of Adjustment, and if necessary building and zoning permits obtained, if required.

266-14. Operating and sanitary requirements

- A. Every massage, bodywork, and somatic therapy establishment shall comply with the following sanitary and operational requirements:
 - 1. Every portion of the massage, bodywork and somatic therapy establishment, including appliances and apparatus, shall be kept clean and operated in a sanitary condition.
 - 2. The hours of operation for the establishment shall be posted conspicuously and unobstructed where these may be viewed from the outside of the establishment. The following signage shall be posted conspicuously and unobstructed in the reception area where these may be viewed by patrons:
 - (a) Price rates for all services provided by the establishment.
 - (b) A sign reading: "Consumer complaints regarding this establishment may be made by calling the Borough of Butler Health Department" along with the telephone number for the Borough's Health Department. All lettering for the sign shall be a minimum height of two inches (2") and shall contrast in color to the background of the sign.
 - 3. The public entrance to the establishment and any door leading to areas wherein corridors for rooms where massage, bodywork, or somatic therapy work areas are located shall be unlocked while the establishment is providing services to clients. Use of remote locking and unlocking systems and/or intercom systems to permit entry into the establishment shall be prohibited.
 - 4. A landline telephone shall be made available in the establishment. Emergency telephone numbers for EMS, the Borough's Police Department, Fire Department, and Health Department along with "911" shall be posted conspicuously and unobstructed from view adjacent to the telephone.

5. All employees, including and therapists, shall, at all times while on the business premises, wear clean, nontransparent outer garments solidly covering the shoulders and extending four inches (4") or less above the elbows to the base of the neck. Skirts, mini-skirts, and dresses shall not be worn by any employee at any time while on the licensed premises and only trousers or pants may be worn while on duty. Further, under no circumstances shall these garments permit the genitals, pubic area, abdomen, back, buttocks, breast, cleavage, or chest to be exposed. All employees shall wear shoes while on the premises during business hours.
6. All employees shall wear name tags which are of durable design while on the premises bearing their first and last names. Name tags shall be displayed visibly on the upper portion of the shirt on either right or left side.
7. Dressing rooms for clients shall be provided on the premises. Doors to such dressing rooms shall open inward and shall be self-closing. This requirement shall not apply to establishments which do not have dressing rooms on the premises as of this Article's adoption provided that:
 - (a) The owner provides detail in writing to the Health Officer on the establishment's current arrangements and facilities to permit clients to disrobe and change;
 - (b) Dressing rooms shall be provided in establishments operating prior to the adoption of this article if the establishment undergoes extensive renovations or changes ownership; and
 - (c) Dressing rooms shall be required in new establishments which open after the adoption of this article.
8. Rooms wherein massage, bodywork, or somatic therapy is provided shall not have any type of locking device nor shall such rooms be locked while occupied by a client and the therapist. This requirement shall not preclude the licensee from using signage on the exterior side of the door to the room to indicate when said room is occupied by a client and a therapist.
9. Locker facilities provided for use by patrons shall be fully secured for the protection of the patron's valuables, and the patron shall be given control of the key or other means of access.
10. All massage, bodywork, and somatic therapy establishments shall have clean laundered sheets and towels in sufficient quantity which shall be laundered after each use thereof and stored in a sanitary manner. Receptacles with lids shall be provided for the depositing of soiled and used linens. Such receptacles shall be kept clean and shall be of non-absorbent and easily-cleanable design. All clean linens shall be stored in such a manner so as to prevent contamination.
11. Towels, coverings, and linens shall be laundered either by a commercial laundering service or laundered on site. Laundering machines used on site shall be in working order and supplied with hot and cold water. Soiled linens and draping materials washed on site shall be washed in a clothes washing machine, in hot water with detergent and at least one quarter cup of bleach per gallon or an antibacterial agent. A clothes dryer shall be provided on site when laundering machines are provided in the establishment and such dryers shall be in working order. All laundered towels, coverings, draping materials and linens shall be dried on the highest heat setting of the establishment's clothes dryer.
12. Only tables or chairs which were specifically designed by the manufacturer for massage, bodywork, or somatic therapy and which are easily cleanable and non-absorbent shall be used in the establishment for rendering such therapies.

13. The patron's genitals, pubic area, anus, and female patron's breast below the point immediately above the top of the areola must be fully draped at all times while any employees of the business or establishment is in the room where the massage therapy, bodywork, or somatic therapy will be performed.

14. The presence or use of table showers in the establishment shall be prohibited. Establishments with table showers as of the adoption of this Article shall have ninety (90) days from the date this Article is adopted to fully remove such table showers from the establishment.

15. All walls, ceilings, floors, showers, spas, steam rooms and all other physical facilities and surfaces shall be in good repair and maintained in a clean and sanitary condition. Wet and dry heat rooms, steam or vapor rooms or steam or vapor cabinets and shower compartments and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs and showers shall be kept dry, clean and sanitary.

16. Oils, creams, lotions and other preparations used in administering massage, bodywork and somatic therapies shall be kept in clean and closed containers. If such oils, creams, lotions, and other preparations are placed in smaller containers for individual use by the therapist, the product's manufacturer's container with the manufacturer's label from which the product originated shall be available on site. When a liquid, cream, or other preparations are to be used on or made available for use directly by a patron, these shall be removed from the container in such a way as not to contaminate the remaining portion in the container.

17. Any combs, brushes, or other personal items of grooming or hygiene that are provided for the use of patrons shall be either fully disposable and shall not be used by more than one (1) patron.

18. No patrons shall be allowed to use any shower facilities within the establishments unless such patrons are wearing slip resistant sandals or flip-flops while in the shower compartment. All footwear such as sandals or flips-flops that are provided for the use of patrons shall be either fully disposable or if used by more than one patron, shall be fully disinfected after each use in a manner approved by the Health Officer or his designated agent.

19. The following activities shall not be permitted in a massage establishment:

(a) Ear candling.

(b) All procedures and services that involve ear picks, ear scoops and ear spoons.

(c) Cupping, or applying the open end of a glass vessel or vessel of another material onto the client's skin and utilizing an open flame to heat the vessel.

(d) Any activities or therapies that utilize any form of terrestrial or aquatic animals during therapy including but not limited to fish foot spas.

(e) Any activities or therapies that utilize animal waste or products that contain animal waste as an ingredient.

(f) Colon cleansing.

20. Animals, except for seeing-eye, hearing, and/or service dogs, shall not be permitted in the massage work area.

21. Before administering a massage, bodywork or somatic therapy to a patron, the therapist shall wash his or her hands in warm running water, using a proper soap or disinfectant, and lather vigorously for no less than twenty (20) seconds while paying particular attention to removing soil from underneath the fingernails during the cleaning procedure, and creating friction on the surfaces of the hands and arms, finger tips, and areas between the fingers. Hand drying shall be accomplished by use of disposable paper towels or an electric hand drying device. Use of common cloth towels for hand drying shall be prohibited.

22. All restroom and workstation hand washing sinks are to be stocked with liquid hand soap and paper towels. Common towels shall be prohibited in restrooms. Hand washing sinks shall be readily accessible to all workstations. Dispensers for soap and paper towels shall be wall mounted. Hand washing signs provided by the Health Department must be posted conspicuously at all hand washing sinks.

23. No massage, bodywork or somatic therapy establishment shall knowingly serve any patron infected with any parasitic infections such as pediculosis or scabies and/or fungal, bacterial, or other skin infections, nor shall service be performed on any patron exhibiting skin inflammation or eruptions. No massage, bodywork or somatic therapy establishment shall knowingly serve any patron demonstrating any other medically recognized contraindication, provided that a duly licensed physician may certify that a person may be safely provided with a massage, bodywork or somatic therapy, prescribing the conditions thereof.

24. The owner or operator shall submit a disinfection/sterilization plan for non-disposable instruments and materials used in administering massages, bodywork and/or somatic therapies to the Health Officer for approval at the time of the initial application for licensure or any subsequent application for license renewal thereof and must operate in compliance with an approved plan. Such non-disposable instruments and materials shall be disinfected after use on each patron and stored in a clean and sanitary manner. Ample supplies of the disinfectant and/or sanitization agents approved by the Health Officer or his designated agent shall be available in the establishment at all times. All such agents shall be stored in their original container, shall bear the manufacturer's label, and shall be used in a manner consistent with the manufacturer's instructions.

25. Restroom doors shall be self-closing and each restroom shall be provided with an easily cleanable, non-absorbent, and covered waste receptacle. The exterior portion of the door to the restroom shall be clearly marked with a sign identifying the gender for which the restroom is designated for use. If the restroom is designated for unisex use, the exterior portion of the door shall be clearly marked as being designated for both genders. All toilets shall be in working order. All showers shall be in working order. All sinks and showers in the establishment shall be supplied with hot and cold running water. Hot and cold water at hand washing sinks shall dispense water from a single faucet under pressure. Hot and cold water in showers shall dispense under pressure.

26. The establishment shall be kept free of vermin and conditions which are conducive to the breeding, feeding, and harboring of vermin. Extermination services shall only be performed by a licensed exterminator.

27. Garbage and waste generated shall be kept in non-absorbent and easily cleanable waste receptacles. Waste receptacles in rooms where services are rendered to patrons shall be lined with plastic disposable bags and shall be supplied with lids which can be opened with a foot pedal. All waste containers shall be maintained in a sanitary manner, shall not be permitted to overflow, and shall be maintained in such a manner so as to prevent the entry of vermin. All outside garbage and waste storage areas shall be maintained in a sanitary manner at all times. All waste receptacles stored outside shall be covered and shall be maintained in good condition and be of such design so as to prevent the entry or feeding of vermin.

266-15. Sleeping quarters

- A. No part of any quarters of any massage, bodywork and somatic therapy establishment shall be used for or connected with any bedroom or sleeping quarters nor shall any person sleep in such massage, bodywork and somatic therapy establishment except for limited periods incidental to and directly related to a massage, bodywork or somatic therapy treatment.
- B. Beds or mattresses shall not be permitted on the licensed premises.
- C. No smoking shall be permitted on the licensed premises.

266-16. Prohibited acts

- A. At no time shall clients and any employee(s) of the establishment simultaneously occupy any dressing room in the establishment, restroom, steam rooms, dry heat, vapor, or shower and/or bathing rooms. In the event a client requires toiletries, towels, or other items, the items shall be passed to the client through the door into such rooms by the employee who shall remain outside of the room while the items are passed to the client.
- B. It shall be unlawful for any person knowingly, in a massage, bodywork or somatic therapy establishment, to place his or her hand upon or touch with any part of his or her body, to fondle in any manner or to massage a female patron's breast or the sexual or genital area of any other person. No massage, bodywork or somatic therapist, employee or operator shall perform or offer to perform any act which would require the touching of a female patron's breasts or the patron's sexual or genital area.
- C. No owner or manager of a massage, bodywork and somatic therapy establishment shall tolerate in his or her establishment any activity or behavior prohibited by the State of New Jersey, particularly, but not limited to, laws proscribing prostitution, indecency and obscenity, including the sale, uttering or exposing and public communication of obscene material; laws which relate to the commission of sodomy, adultery and proscribing fornication, nor shall any owner or manager tolerate in his or her establishment any activity or behavior which violates this section.
- D. Any conviction of any employee of a massage, bodywork and somatic therapy establishment of a violation of the aforementioned statutes and codes shall devolve upon the owner or manager of such establishment, to the extent that it constitutes sufficient cause for the suspension or revocation of the establishment license.

266-17. Exceptions

- A. The provisions of this Article shall not apply to massage, bodywork or somatic therapies given:
 - 1. In the office of a licensed physician, chiropractor or physical therapist; or
 - 2. By a regularly established medical facility having a staff which includes licensed physicians, chiropractors and/or physical therapists; or
 - 3. By any licensed physician, chiropractor or physical therapist in the residence of his or her patient; or
 - 4. By a licensed barber or cosmetologist/hairstylist limited to the areas of the face, neck, scalp or upper part of the body, manicurists and pedicurists, as set forth in the Cosmetology and Hairstyling Act of 1984, N.J.S.A. 45:5B-1 et seq.

266-18. Suspension or revocation of license

- A. Establishment licenses issued under this Article may be revoked or suspended by the Health Officer or his designated agent pending a formal hearing before the Board of Health. Reasons for automatic suspension or revocation of an establishment license include but are not limited to the following:
1. Fraud, misrepresentation or false statement in the application for the establishment license.
 2. Fraud, misrepresentation or false statement made while operating the licensed business in the Borough.
 3. Conviction of a crime or offense involving moral turpitude, a felony, an offense involving sexual misconduct, keeping or residing in a house of prostitution, and any crime involving dishonesty.
 4. Conducting the licensed business within the Borough in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.
 5. An existing or threatened menace to the public health as determined by the Health Officer.
 6. The owner and/or operator or any employee refuses to permit, hinders, or obstructs, the Health Officer or his designated agent or any duly authorized Borough Police Officer or official to inspect the premises or the operations therein.
- B. A person, firm, corporation, or other entity whose license has been revoked shall close the establishment and request all patrons to vacate the premises.
- C. The licensee shall be entitled to a hearing before the Board of Health within a reasonable time which is not to exceed fifteen (15) days for the purpose of seeking reinstatement of a suspended or revoked license. Written notice of the time and place of such a hearing shall be served upon the licensee at least three (3) days prior to the date set for such hearing. Such notice shall contain a brief statement of the grounds to be relied upon for revoking, cancelling, or suspending such license. Notice may be given either by personal delivery thereof to the person to be notified or be deposited in the United States Post Office in a sealed envelope, postage prepaid, addressed to such person to be notified at the business address appearing upon such license by simultaneous regular mail and certified mail, return receipt requested.
- D. At the hearing before the Board of Health, the licensee shall have an opportunity to answer and may thereafter be heard, and upon due consideration and deliberation by the Board of Health, the complaint may be dismissed, or if the Board of Health concludes that the charges have been sustained and substantiated, it may deny reinstatement of the license and stipulate the conditions required for reinstatement of the license.
- E. If any such license shall have been revoked, neither the holder thereof nor any person acting for him, directly or indirectly, shall be entitled to another license to carry on the same business within the Borough, unless the application for such license shall be approved by the Board of Health.

266-19. Inspections; access to premises

- A. The Health Officer and his designated agent, shall, from time to time, at least twice a year, make unannounced inspections of each massage, bodywork and somatic therapy establishment granted a license under the provisions of this Article for the purpose of determining compliance with the provisions of this Article and/or applicable rules, regulations, and laws. Such inspection shall be made at reasonable times and in a reasonable manner.
- B. Any duly appointed Borough Police Officer shall be permitted to enter upon and inspect the premises for compliance with this Article.
- C. All parts of the establishment shall be made accessible to the Health Officer or his designated agent and any duly appointed Borough Police Officer.
- D. It shall be unlawful for any licensee or his/her employee to hinder, impede, or fail to allow the Health Officer or his/her designee, any duly appointed Borough Police Officer, or Borough Official needing to perform an inspection, access to all areas of the establishment.

266-20. Inspection placard; posting of placard

- A. Immediately upon the conclusion of the inspection, the Health Officer or his designated agent shall issue an evaluation placard of the establishment and leave the original copy of the inspection report form with the person in charge of the establishment at the time of the inspection. The evaluation placard shall identify that the establishment is one of the following:
 - 1. **"Satisfactory"**: The establishment is found to be operating in substantial compliance with this Article and the licensee and his/her employees have demonstrated that they are aware of the licensing, operational, and sanitary requirements outlined in this article;
 - 2. **"Conditionally Satisfactory"**: At the time of the inspection the establishment was found not to be operating in substantial compliance with this Article and was in violation of one or more provisions of this Article. Due to the nature of these violations, a reinspection shall be scheduled. The reinspection shall be conducted at an unannounced time. A full inspection shall be conducted at the time of reinspection. Opportunity for reinspection shall be offered within a reasonable time and shall be determined by the nature of the violation; or
 - 3. **"Unsatisfactory"**: Whenever a licensed establishment is operating in violation of this Article, with one or more violations of this Article that constitute gross insanitary or unsafe conditions, which pose an imminent health hazard, and/or violations of this Article which serve as grounds for revocation or suspension of the establishment license, the Health Officer or his/her designees shall issue an unsatisfactory evaluation. The Health Officer shall immediately request that all operations cease until it is shown on reinspection that conditions which warrant an unsatisfactory evaluation no longer exists. Issuance of an unsatisfactory rating shall serve as ground for immediate suspension or revocation of the establishment's license.

- B. The licensee or person in charge of the establishment at the time of the inspection shall post the evaluation placard of the most recent evaluation made by the Health Officer or his designated agent. The evaluation placard shall be posted immediately in a conspicuous place near the public entrance of the establishment in such a manner that the public may fully view the placard.
- C. Inspection reports provided by the Health Officer or his designated agent shall be kept on the premises for a minimum of three (3) years from the date of issuance and shall be provided upon request to any member of the public or any Borough Official.

266-21. Reinspection fee

- A. For any licensed establishment which requires reinspection as a result of a classification as “conditionally satisfactory” or “unsatisfactory”, a reinspection fee of \$240.00 shall be paid by the licensee prior to the reinspection. A reinspection fee shall also be required for any subsequent “conditionally satisfactory” or “unsatisfactory” classifications issued to the licensee at the conclusion of a reinspection.
- B. For repeat violations, a reinspection fee of \$240.00 shall be paid by the licensee per violation. A violation shall be deemed a repeat violation if the owner or person in charge of an establishment licensed under the provisions of this ordinance fails:
 - 1. To properly correct or abate a violation after having been notified verbally and in writing during a previous inspection or complaint investigation; and/or
 - 2. To take proper measures to prevent the reoccurrence of a violation after having been notified verbally and in writing during a previous inspection or complaint investigation.

266-22. Violations and penalties

- A. In addition to the revocation or suspension of the license granted under this Article, any person who violates any provision of this Article shall, upon conviction thereof, be punishable by a fine of not more than \$2,000 or imprisonment for a term not to exceed 90 days or by a period of community service not to exceed 90 days.

266-23. Enforcement agent

- A. The enforcement agent for this Article shall be the Health Officer or his designated agent and any duly appointed Borough Police Officer

APPENDIX

Chapter A265

CABLE TELEVISION FRANCHISE

- § A265-1. Definitions.
- § A265-2. Statement of findings.
- § A265-3. Grant of authority.
- § A265-4. Duration of franchise.
- § A265-5. Expiration and subsequent renewal.
- § A265-6. Franchise territory.
- § A265-7. Service area.
- § A265-8. Franchise fee.
- § A265-9. Free service.
- § A265-10. Construction requirements.
- § A265-11. Technical and customer service standards.
- § A265-12. Local office or agent.
- § A265-13. Designation of complaint officer.
- § A265-14. Liability insurance.
- § A265-15. Performance bond.
- § A265-16. Rates.
- § A265-17. Emergency uses.
- § A265-18. Equitable terms.
- § A265-19. Removal of facilities.
- § A265-20. Public, educational and governmental access.
- § A265-21. Incorporation of application.
- § A265-22. Consistency with applicable laws.
- § A265-23. Separability.
- § A265-24. Notice.
- § A265-26. Effective Date and Board of Public Utility Approval.

[HISTORY: Adopted by the Mayor and Council of the Borough of Butler 1-23-2001 by Ord. No. 2000-31.¹ ; Amended by Ord. 2013-17 on 10-15-2013. Amendments noted where applicable.]

§ A265-1. Definitions.

“Act” or “Cable Television Act” shall mean that statute of the State of New Jersey relating to cable television, known as the Cable Television Act, N.J.S.A. 48:5A-1 et seq.

“Application” shall mean Cablevision’s application for Renewal of Municipal Consent, which application is on file in the Borough Clerk’s office and is incorporated herein by reference and made a part hereof, except as modified, changed, limited or altered by this Ordinance.

“Board” shall mean the Board of Public Utilities of the State of New Jersey or its successor agency.

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1. Editor's Note: This ordinance also superseded former Ch. A265, Cable Television Franchise, adopted 12-18-1990 by Ord. No. 1990-31.
 2. Editor's Note: The preamble of this ordinance defined "Borough" as the governing body of the Borough of Butler and "company" or "Cablevision" as Cablevision of Oakland, Inc.

“Borough” shall mean the governing body of the Borough of Butler in the County of Morris, and the State of New Jersey.

“Company” shall mean Cablevision of Oakland, LLC (“Cablevision”) the grantee of rights under this Ordinance.

“FCC” shall mean the Federal Communications Commission.

“Federal Act” shall mean that federal statute relating to cable communications commonly known as the Cable Communications Policy Act of 1984, 47 U.S.C. Section 521 et seq. and the Telecommunications Act of 1996, or as those statutes may be amended.

“Federal Regulations” shall mean those federal regulations relating to cable television services, 47 C.F.R. Section 76.1 et seq. (and, to the extent applicable, any other federal rules and regulations relating to cable television, including but not limited to, those described in 47 C.F.R. Section 76.3), or as such regulations may be amended.

“Standard installation” shall mean the installation of drop cable to a customer’s premise where the distance from the point of entry into the building being served is less than 150 feet from the active cable television system plant.

“State” shall mean the State of New Jersey.

“State Regulations” shall mean those regulations of the State of New Jersey Board of Public Utilities relating to cable television. N.J.A.C. 14:17-1.1 et seq. and N.J.A.C. 14:18-1 et seq., or as such regulations may be amended.

§ A265-2. Statement of findings.

A public hearing concerning the consent herein granted to Cablevision was held after proper public notice pursuant to the terms and conditions of the Act. Said hearing having been held and fully open to the public, and the municipality having received all comments regarding the qualifications of Cablevision to receive this consent, the Borough hereby finds Cablevision possesses the necessary legal, technical, character, financial and other qualifications to support municipal consent, and that Cablevision’s operating and construction arrangements are adequate and feasible.

§ A265-3. Grant of authority.

The Borough hereby grants to Cablevision its non-exclusive consent to place in, upon, along, across, above, over, and under its highways, streets, alleys, sidewalks, public ways, and public places in the municipality poles, wires, cables, and fixtures necessary for the maintenance and operation in the Borough of a cable television system or other communications facility, and for the provision of any communication service over such facilities. Operation and construction, pursuant to said consent, is conditioned upon prior approval of the Board of Public Utilities.

§ A265-4. Duration of franchise.

This consent granted herein shall be non-exclusive and shall be for a term of ten (10) years from the date of issuance of a Certificate of Approval by the Board.

§ A265-5. Expiration and subsequent renewal.

If Cablevision seeks successive consent, it shall, prior to the expiration of this consent, apply for a municipal consent and certificate of approval in accordance with N.J.S.A 48:5A-16, and applicable state and federal rules and regulations. In accordance with N.J.S.A. 48:5A-25.1, both the Borough and Cablevision shall be bound by the terms of this municipal consent until such time as Cablevision converts the municipal consent (and any certificate of approval) into a system-wide franchise.

§ A265-6. Franchise territory.

The consent granted under this Ordinance to Cablevision shall apply to the entirety of the Borough and any property hereafter annexed.

§ A265-7. Service area.

Cablevision shall be required to proffer video programming service along any public right-of-way to any person's residence within the portion of the Franchise territory, as described in the Application for municipal consent, at Cablevision's schedule of rates for standard and nonstandard installation.

§ A265-8. Franchise fee.

Pursuant to the terms and conditions of the Cable Television Act, Cablevision shall pay to the Borough, as an annual franchise fee, a sum equal to two percent (2%) of the actual gross revenues received from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception services in the Borough. In the event applicable law hereinafter permits a larger franchise fee to be collected, but does not fix the amount thereof, the Borough and Cablevision shall negotiate in good faith with respect to the amount thereof; provided, however, that nothing herein shall be construed to permit the Borough to require payment of a franchise fee by Cablevision that is higher than the fee paid by all other cable television service providers offering service in the Municipality.

§ A265-9. Free service.

Cablevision shall, upon written request, provide free of charge, one (1) standard installation and monthly cable television reception service to all State or locally accredited public schools and all municipal public libraries, as well as municipal buildings located within the Borough.

Upon written request from the Borough, the Company shall provide to state and locally accredited elementary and secondary schools and municipal public libraries in the Borough, without charge, the following: (1) one standard installation per school or library; (2) one cable modem per installation; and, (3) basic cable modem service for the term of this Ordinance for each installation. This offer shall be subject to the terms, conditions and use policies of the Company, as those policies may exist from time to time.

§ A265-10. Construction requirements.

Cablevision shall perform construction and installation of its plant and facilities in accordance with applicable State and federal law. The Company shall be subject to the following additional construction requirements with respect to the installation of its cable plant and facilities in the Borough:

- (a) In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways or other surfaces, the Company shall at its sole expense restore and replace such disturbances in as good a condition as existed prior to the commencement of said work.
- (b) If at any time during the period of this consent, the municipality shall alter or change the grade of any street, alley or other way or place, the Company, upon reasonable notice by the Borough shall remove or relocate its equipment, at its own expense.
- (c) Upon request of a person holding a building or moving permit issued by the Borough, the Company shall temporarily move or remove appropriate parts of its facilities so as to permit the moving or erection of buildings or for the performance of other work. The expense of any such temporary removal or relocation shall be paid in advance to the Company by the person requesting the same. In such cases, the Company shall be given not less than fourteen (14) days prior written notice in order to arrange for the changes required.
- (d) During the exercise of its rights and privileges under this consent, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the Borough so as to prevent the branches of such trees from coming in contact with the wires, cables, conduits and fixtures of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance for the Company's facilities.

§ A265-11. Technical and customer service standards.

Cablevision shall comply with the technical and customer service standards established for the cable industry under applicable federal and State laws, rules and regulations.

§ A265-12. Local office or agent.

Cablevision shall establish and maintain during the entire term of this consent a local area business office or agent for the purpose of receiving, investigating and resolving complaints regarding the quality of service, equipment malfunctions and similar matters. Said office shall be open daily during normal business hours, and in no event less than 9:00 a.m. to 5:00 p.m., Monday through Friday, with the exception of holidays.

§ A265-13. Designation of complaint officer.

The Office of Cable Television is hereby designated as the complaint officer for the Borough pursuant to the provisions of N.J.S.A. 48:5A-26. All complaints shall be reviewed and processed in accordance with N.J.A.C. 14:17-6.5.

§ A265-14. Liability insurance.

Cablevision agrees to maintain and keep in force and effect at its sole cost at all times during the term of this consent, sufficient liability insurance naming the Borough as an additional insured and insuring against loss by any such claim, suit, judgment, execution or demand in the minimum amounts of five-hundred thousand dollars (\$500,000) for bodily injury or death to one person, and one million dollars (\$1,000,000) for bodily injury or death resulting from any one accident or occurrence stemming from or arising out of the Company's exercise of its rights hereunder.

§ A265-15. Performance bond.

Cablevision shall obtain and maintain, at its sole cost and expense, during the entire term of this Agreement, a bond to the municipality in the amount of twenty-five thousand dollars (\$25,000.00). Such bond shall be to insure the faithful performance of its obligations as provided in this Franchise.

§ A265-16. Rates.

A. The rates of the Company for cable television service shall be subject to regulation to the extent permitted by federal and State law.

B. Cablevision shall implement a senior citizen discount in the amount of ten percent (10%) off the monthly broadcast basic level of cable television service rate to any person sixty-two (62) years of age or older, who subscribes to cable television services provided by the Company, subject to the following:

- (i) Such discount shall only be available to eligible senior citizens who do not share the subscription with more than one person in the same household who is less than sixty-two (62) years of age; and,
- (ii) In accordance with N.J.S.A. 48:5A-11.2, subscribers seeking eligibility for the discount must meet the income and residence requirements of the Pharmaceutical Assistance to the Aged and Disabled program pursuant to N.J.S.A. 30:4D-21; and,
- (iii) The senior discount herein relates only to the broadcast basic level of cable television service, and shall not apply to any additional service, feature, or equipment offered by the Company, including any premium channel services and pay-per-view services; and,
- (iv) Senior citizens who subscribe to a level of cable television service beyond expanded basic service, including any premium or per channel a la carte service, shall not be eligible for the discount; and,

C. The Company shall have no further obligation to provide the senior discount herein in the event that (a) the Company converts the municipal consent granted herein to a system-wide franchise in accordance with N.J.S.A. 48:5A-25.1; or (b) upon Board approval of a certification that another cable television service provider offering services to residents of the Borough files, in accordance with N.J.S.A. 48:5A-30(d), is capable of serving sixty percent (60%) or more of the households within the Borough. In the event the Company does cease providing a senior discount pursuant to this provision, it shall comply with all notice requirements of applicable law.

§ A265-17. Emergency uses.

Cablevision shall be required to have the capability to override the audio portion of the system in order to permit the broadcasting of emergency messages by the Borough pursuant to state and federal requirements. The Company shall in no way be held liable for any injury suffered by the Borough or any other person, during an emergency, if for any reason the municipality is unable to make full use of the cable television system as contemplated herein. The Borough shall utilize the state-approved procedures for such emergency uses.

§ A265-18. Equitable terms.

In the event that the service of another multi-channel video program provider not subject to the Borough's regulatory authority within the Borough creates a significant competitive disadvantage to Cablevision, the Company shall have the right to request from the Borough lawful amendments to its Franchise that relieve it of burdens which create the unfair competitive situation. Should the Company seek such amendments to its Franchise, the parties agree to negotiate in good-faith appropriate changes to the Franchise in order to relieve the Company of such competitive disadvantages. If the parties can reach an agreement on such terms, the Borough agrees to support the Company's petition to the Board for modification of the consent in accordance with N.J.S.A 48:5A-47 and N.J.A.C. 14:17-6.7.

If the parties are unable to reach an agreement on appropriate amendments to the franchise, the Borough acknowledges that the Company shall have the right to petition the Board directly for such amendments in accordance with N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7; provided, however, the Borough shall be under no obligation to support Cablevision's request for such relief from the Board.

In any subsequent municipal consent, Borough shall require, at a minimum, the same terms and conditions of any other provider of multi-channel video programming subject to the Borough's regulatory authority as those contained in the instant consent. In the event such subsequent consent does not contain the same terms and conditions as the instant consent, Borough agrees to support the Company's petition to the Board for modification of the consent in accordance with NJSA 48:5A-47 and NJAC 14:17-6.7 to relieve the Company of competitive disadvantages identified in the Company's petition.

§ A265-19. Removal of facilities.

Upon expiration, termination or revocation of this Ordinance, Cablevision at its sole cost and expense and upon direction of the Board, shall remove the cables and appurtenant devices constructed or maintained in connection with the cable services authorized herein, unless Cablevision, its affiliated entities or assignees should, within six (6) months after such expiration, termination or revocation obtain certification from the FCC to operate an open video system or any other federal or state certification to provide telecommunications.

§ A265-20. Public, educational and governmental access.

A. Cablevision shall continue to make available non-commercial public, educational and governmental (PEG) access services available to the residents of the Borough as described in the Application for municipal consent. All Cablevision support for PEG access shall be for the exclusive benefit of Cablevision's subscribers.

B. The Borough agrees that Cablevision shall retain the right to use the PEG access channel, or portion thereof, for non-PEG access programming, during times when the Borough is not utilizing the channel for purposes of providing PEG access programming. In the event that the Company uses said PEG access channel for the presentation of such other programming, the PEG programming shall remain the priority use and the Company's rights with respect to using the channel for non-PEG programming shall be subordinate to the Borough's provision of PEG access programming on such channel.

C. Cablevision shall have discretion to determine the format and method of transmission of the PEG access programming provided for in this Section 20.

D. Cablevision shall provide the Borough with a one-time PEG grant of up twelve thousand dollars (\$12,000.00) payable as follows: (1) an initial grant payment of three thousand dollars (\$ 3,000.00) within 90 days of the issuance of the Certificate of Approval by the Board of Public Utilities (the "Initial Grant"); and (2) a grant of nine thousand dollars (\$ 9000.00) provided in annual installments of one thousand dollars (\$1,000.00) each, upon written request by the Borough (the "Annual Grant"). The Annual Grant shall be payable to the Borough within ninety (90) days from receipt of the Borough's annual written request. Cablevision shall not be obligated to make any additional payments beyond year ten of the franchise term.

E. The Borough agrees that the Initial Grant and the Annual Grant provided pursuant to Paragraph D, shall be used for the exclusive support of PEG access programming, such as the purchase and/or rental of PEG access equipment and facilities. On request, the Borough shall provide Cablevision with a certification of compliance with this Section 20(E).

F. The Company shall have no further obligation to provide any PEG grant payments due and payable after the date upon which the Company converts the municipal consent granted herein to a system-wide franchise in accordance with N.J.S.A. 48:5A-25.1.

§ A265-21. Incorporation of application.

All of the commitments contained in the Application and any amendment thereto submitted in writing to the Borough by the Company except as modified herein, are binding upon Cablevision as terms and conditions of this consent. The Application and any other written amendments thereto submitted by Cablevision in connection with this consent are incorporated in this Ordinance by reference and made a part hereof, except as specifically modified, changed, limited, or altered by this Ordinance, or to the extent that they conflict with State or federal law.

§ A265-22. Consistency with applicable laws.

This consent shall be construed in a manner consistent with all applicable federal, State and local laws, as such laws, rules and regulations may be amended from time to time.

§ A265-23. Separability.

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

§ A265-24. Notice.

Notices required under this Ordinance shall in writing and shall be mailed, first class, postage prepaid, to the addresses below. Either party may change the place where notice is to be given by providing such change in writing at least thirty (30) days prior to the time such change becomes effective. The time to respond to notices under this Ordinance shall run from receipt of such written notice.

Notices to the Company shall be mailed to:

Cablevision Systems Corporation
111 Stewart Avenue
Bethpage, NY 11714
Attention: Vice President for Government/Public Affairs, New Jersey

With a copy to:

Cablevision of Oakland, LLC
1111 Stewart Avenue
Bethpage, NY 11714
Attention: Legal Department

Notices to the Borough shall be mailed to:

Borough of Butler
One Ace Road
Butler, New Jersey 07405
Attention: Borough Administrator

§ A265-24. Effective Date and Board of Public Utility Approval.

This Ordinance shall take effect upon issuance of a Certificate of Approval as issued by the Board of Public Utilities that incorporates the material terms of this Ordinance. Nothing herein shall alter the right of the Company to seek modification of this Ordinance in accordance with N.J.S.A 48:5A-47 and N.J.A.C. 14:17-6.7. In accordance with N.J.S.A. 48:5A-25.1, the terms of this Ordinance will no longer be in effect upon Cablevision converting the municipal consent (and any certificate of approval) into a system-wide franchise.

**DISPOSITION
LIST**

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition legislation.

The following is a chronological listing of legislation of the Borough of Butler adopted since January 1, 2004, that has been codified, indicating its inclusion in the Code or the reason for its exclusion. Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM) and is not included on this Disposition List. Consult municipal records for information pertaining to legislation not on this Disposition List.

§ DL-1. Disposition legislation.

Enactment	Adoption Date	Subject	Disposition
2004-2	4-20-2004	Alcoholic beverage sales amendment	Ch. 67, Art. I
2004-3	4-20-2004	Copies of public records amendment	Ch. 119, Art. I
2004-7	7-20-2004	Uniform construction codes amendment	Ch. 101
2004-8	7-20-2004	Vehicles and traffic amendment	Ch. 225
2004-9	7-20-2004	Copies of public records amendment	Ch. 119, Art. I
2004-16	10-19-2004	Copies of public records amendment	Ch. 119, Art. I
2005-5	4-19-2005	Sewers amendment	Ch. 191
2005-6	5-17-2005	Vehicles and traffic amendment	Ch. 225
2005-9	5-17-2005	Towing and storage of vehicles amendment	Ch. 216
2005-22	10-18-2005	Vehicles and traffic amendment	Ch. 225
2005-23	10-18-2005	Vehicles and traffic amendment	Ch. 225
2005-26	12-20-2005	Water amendment	Ch. 234
2005-27	12-20-2005	Sewers amendment	Ch. 191
2006-1	1-17-2006	Vehicles and traffic amendment	Ch. 225

Enactment	Adoption Date	Subject	Disposition
2006-2	2-7-2006	Police Department amendment	Ch. 40
2006-3	3-7-2006	Uniform Construction Codes amendment	Ch. 101
2006-4	3-21-2006	Alarm systems repealer	Ch. 65, reference only
2006-6	4-18-2006	Rental or lease of residential property	Ch. 182
2006-7	4-18-2006	Violations and penalties amendment	Chs. 1, 67, 69, 79, 82, 85, 89, 91, 93, 101, 101A, 102, 108, 117, 120, 122, 124, 129, 133, 150, 153, 160, 165, 168, 174, 180, 184, 187, 191, 194, 196, 202, 213 and 230
2006-11	5-16-2006	Disposal of pet waste; feeding wildlife; containerized yard waste; illicit connection to stormwater system; improper disposal of waste in municipal storm sewer system	Chs. 72, Arts. IV and V; 130; 192; 193
2006-12	5-2-2006	Alcoholic beverages: Sales amendment	Ch. 67, Art. I
2006-14	5-16-2006	Butler Alliance Commission	Ch. 56
2006-15	5-16-2006	Vehicles and traffic amendment	Ch. 225
2006-18	6-20-2006	Towing and storage of vehicles amendment	Ch. 216
2006-25	9-19-2006	Bingo and raffles amendment	Ch. 82
2006-26	11-21-2006	Housing standards amendment	Ch. 136
2006-27		Land use amendment	Ch. 143
2006-29	12-19-2006	Parks and recreation areas amendment	Ch. 168
2007-01 (Board of Health)	2-21-2007	Sanitation amendment	Ch. 257

Enactment	Adoption Date	Subject	Disposition
2007-1		Vehicles and traffic amendment	Ch. 255
2007-2	2-20-2007	Garbage, refuse and recyclables amendment	Ch. 129
2007-3	2-20-2007	Vehicles and traffic amendment	Ch. 255
2007-4	2-20-2007	Towing and storage of vehicles amendment	Ch. 216
2007-5	2-20-2007	Newsracks	Ch. 158
2007-6	3-20-2007	Fees: Copies of public records amendment	Ch. 119, Art. I
2007-8	6-19-2007	Massage, bodywork and somatic therapy establishments	Ch. 156
2007-9	4-17-2007	Land use amendment	Ch. 143
2007-10	5-15-2007	Vehicles and traffic amendment	Ch. 225
2007-15	6-19-2007	Administration of government amendment	Ch. 4
2007-16	6-19-2007	Vehicles and traffic amendment	Ch. 225
2007-24	7-21-2007	Land use amendment	Ch. 143
2007-27	9-18-2007	Fees: Copies of public records amendment	Ch. 119, Art. I
2007-29	11-20-2007	Land use amendment	Ch. 143
2008-1	1-22-2008	Land use amendment	Ch. 143
2008-2	2-19-2008	Vehicles and traffic amendment	Ch. 225
2008-3	3-18-2008	Separation of certain designated materials and recyclables; construction, renovation and demolition debris recovery plan and land use amendments	Chs. 129, Arts. II and III, and 143
2008-4	3-18-2008	Water amendment	Ch. 234
2008-5	5-20-2008	Vehicles and traffic amendment	Ch. 225
2008-6	5-20-2008	Loitering repealer	Ch. 155, reference only

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