

**AN ORDINANCE MERGING ARTICLES I THROUGH III, V, VI, AND VII AND ARTICLE IV, DIVISIONS 1 THROUGH 13 OF THE PRINCETON BOROUGH AND TOWNSHIP LAND USE CODES AND AMENDING THE "CODE OF THE TOWNSHIP OF PRINCETON, NEW JERSEY, 1968"**

WHEREAS, the Municipality of Princeton was created on January 1, 2013 pursuant to the New Jersey Municipal Consolidation Act, *N.J.S.A. 40:43-66.35*; and

WHEREAS, it is necessary to merge the land use codes of the former Borough and Township set forth in the Borough Code and Township Code.

NOW, THEREFORE, BE IT ORDAINED by the Princeton Council as follows:

1. Sections 2-99, -100, -102, and -128 and Articles I, IA, II, III, V, VI and VII, and Article IV, Divisions 1 through 13 (but not Division 14) of Chapter 10B of the "Code of the Township of Princeton, New Jersey, 1968" are hereby deleted.
2. Articles I, II, III, V, VI, and VII, and Article IV, Divisions 1 through 13 (but not Division 14) of Chapter 17A the "Code of the Borough Princeton" are hereby deleted.
3. The Code of the Township of Princeton, New Jersey, 1968 is hereby amended by adding the following NEW Articles I-VII, which shall apply to all lands in Princeton, including all lands in the former Borough and Township.

**CHAPTER 10B**

**LAND USE**

**ARTICLE I. General Provisions.**

**Sec. 10B-1. Purposes.**

(a) It is the intent and purpose of this chapter to exercise the authority delegated to municipalities by the Municipal Land Use Law and hereby, in conformance with the purposes of such law:

- (1) To guide the appropriate use or development of all lands in a manner that will promote the public health, safety, morals and general welfare;
- (2) To secure safety from fire, flood, and other natural and human made disasters;
- (3) To provide adequate light, air and open space;
- (4) To ensure that the development of the municipality does not conflict with the development and general welfare of neighboring municipalities, the county and the state as a whole;
- (5) To promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions and the preservation of the environment;
- (6) To encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies;
- (7) To provide sufficient space in appropriate locations for a variety of uses and open space, both public and private, according to their respective environmental requirements;
- (8) To encourage the location and design of transportation routes that will promote the free flow of traffic while discouraging locations of such facilities and routes that result in congestion or blight;
- (9) To promote a desirable visual environment through creative development techniques and good civic design and arrangements;
- (10) To promote the conservation of open space and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land;
- (11) To encourage planned unit developments that incorporate the best features of design and relate the type, design and layout of various types of development to particular sites;
- (12) To encourage the development of housing of sizes and types that will serve residents of various ages, incomes, and physical capabilities;
- (13) To encourage coordination of the various public and private procedures and activities shaping land development with a view to lessening the cost of such development and to the more efficient use of land; and

(14) To promote sustainability and the conservation of energy through the use of planning practices designed to reduce energy consumption and to provide for maximum utilization of renewable energy sources.

(15) To protect the environment and promote sustainability, especially wooded areas and the tree canopy, for the purposes of flood control, soil erosion prevention, energy conservation, wildlife preservation, and aesthetics.

(b) The Princeton Council further finds and declares that Princeton contains numerous buildings, archeological sites, and areas of special character and special historic and aesthetic value; that these buildings, archeological sites, and areas of the municipality reflect elements of the cultural, social, economic, and architectural history of the community; and that preservation and enhancement of such elements are required in the interest of the health, prosperity, and welfare of the municipality as well as the surrounding region. The purpose of the historic district regulations is to:

(1) Preserve and enhance structures, archeological sites, and locations which reflect the heritage of the community;

(2) Maintain and develop harmonious settings for such structures, archeological sites, and locations;

(3) Foster civic pride;

(4) Protect and enhance the community's attractions to visitors;

(5) Strengthen the economy of the community; and

(6) Promote the appreciation of landmarks for the education, pleasure, and welfare of the people of Princeton.

**Sec. 10B-2. Definitions.**

*Administrative officer.* The municipal engineer unless another person is appointed by the Princeton Council for action with respect to a specific development application or other matter.

*Alter.* To change the appearance of exterior elements of a structure, including changing the materials used and removing paint and cleaning by means of abrasives or chemicals or pressurized liquids. A change in the exterior color of a structure shall be considered an alteration

if the change in color entails application of paint or other surface coloring to a surface which has not been painted before or if pre-primed or prefinished material is added to the exterior. In addition, the repainting shall be considered an alteration in Historic Preservation Districts Type 1 if it is substantially out of character with the historic preservation district within which the structure is located. Such repainting, however, shall not be considered an alteration in Historic Preservation Districts Type 2. Ordinary maintenance and repainting in the same color shall not be considered an alteration within this definition. The Type 1 and Type 2 Historic Preservation Districts are shown on the “Overlay Zoning Map of Historic Preservation Districts and Historic Preservation Buffer Districts, Princeton, Mercer County, New Jersey” on file in the office of the Clerk of Princeton, prepared by the Princeton Engineering Department, as revised through December 8, 2014, attached hereto and adopted hereby.

*Applicant.* A developer submitting an application for development.

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

*Application for special permit.* An application for development that seeks the direction of the issuance of a special permit.

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

*Capital improvement.* A governmental acquisition of real property or a major construction project.

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

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

*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 that are contained in the zoning regulations, and upon approval of such use by the Planning Board.

*Construct.* To make, remake, or make additions to the exterior of a structure by combining materials.

*Construction official.* The officer appointed pursuant to law to administer and enforce the State Uniform Construction Code.

*Construction permit.* A permit for construction required by and issued in accordance with the State Uniform Construction Code and ordinances adopted pursuant thereto.

*Conventional.* Development other than planned development.

*Days.* Calendar days.

*De minimis.* When applied to an action affecting a property in a historic preservation district, an action of such minimal nature that: (a) the purposes of historic preservation as defined in this chapter will not thereby be materially affected; and (b) the action does not increase the degree of noncompliance or create a new noncompliance with respect to any bulk regulation set forth in this chapter.

*Demolish.* To partially or completely take down a structure or a part thereof.

*Density.* The permitted number of dwelling units per gross area of land to be developed.

*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 any other person having an enforceable proprietary interest in such land.

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

*Development enforcement officer.* The officer referred to in Section 10B-99.

*Development regulation.* A zoning ordinance, subdivision ordinance, site plan ordinance, or other municipal regulation of the use and development of land, or amendment thereto, adopted and filed pursuant to this chapter.

*Drainage.* The removal of surface water or groundwater from land by drains, grading or other means and includes control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen nonpoint pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage and the means necessary for water supply preservation or prevention or alleviation of flooding.

*Environmental commission.* A municipal advisory body created pursuant to P.L. 1968, c. 245.

*Erosion.* The detachment and movement of soil or rock fragments by water, wind, ice or gravity.

*Financial hardship.* (a) With respect to commercial property, including property rented for residential uses, the inability of the applicant to realize a reasonable return on the property without the proposed work; (b) with respect to property which is devoted to a charitable non-profit purpose and is exempt from local property taxes, the inability of the applicant to carry out such purpose without the proposed work; and (c) with respect to owner-occupied residential property, the inability of the applicant to continue owner-occupied residential use without the proposed work.

*Historic features.* Fences, principal structures, accessory structures, outbuildings, gates, gate posts, walls, gateways, wells, windmills, cemeteries, hedgerows and field rows, landscaping of historic significance, ponds, bridges, dams, sculptures, walkways, driveways, historic boundary markers, and archeological sites and as otherwise defined in the standards established by the United States Secretary of the Interior, provided that such features that are not located within a historic preservation district shall be treated as historic features only if so listed in the Princeton Master Plan or have been so designated by the Council pursuant to *N.J.S.A. 40:55D-65.1*.

*Historic preservation buffer district.* The intervening or surrounding property that significantly affects or is affected by the quality and character of a historic site or historic preservation district and as set forth on the Zoning Map.

*Historic preservation district.* One or more historic sites and intervening or surrounding property significantly affecting or affected by the quality and character of the historic site or sites and as set forth on the Zoning Map.

*Historic preservation districts types 1 and 2.* Historic preservation districts as shown on the Zoning Map. The Type 1 districts are: Maybury Hill; Kingston Mill Historic District; Tusculum; Princeton Battlefield – Stony Brook Settlement Historic District; Mansgrove; Castle Howard; Drumthwacket; Drumthwacket outbuildings, consisting of Coach House/Stables, Greenhouse Potting Shed, Garden Building, Gardener’s House, Farmer’s House and Dairy, Cow Barn; Princeton Basin; Delaware & Raritan Canal Historic District; Joline – Gulick House, Constitution Hill; Edgerstoune; Olden Manor; and Donald G. Herring Estate – Old Arretton Road

Historic District. The Type 2 Districts are: the Jugtown district; Bank Street district; Mercer Hill district; and Central Historic district. The Type 1 and Type 2 districts are subject to the review, procedural, and substantive requirements of this Article; the only differences in the requirements that apply to them concern visibility parameters and changes in color as outlined below:

Type 1	Type 2
Painting or adding other surface coloring to an unpainted surface or adding pre-primed and prefinished material within the Type 1 district requires preservation plan review.	Painting or adding other surface coloring to an unpainted surface or adding pre-primed and prefinished material within the Type 2 district requires preservation plan review.
Painting or other surface coloring that is substantially out of character with the Type 1 district within which the structure is located is subject to preservation plan review.	Changing paint color or other surface coloring within the Type 2 district does not require review.
Proposed work that would be visible from anywhere within the Type 1 district or from the public right-of-way is subject to preservation plan review.	Proposed work within the Type 2 district that would be visible from a public right-of-way is subject to preservation plan review.

*Historic Preservation Officer.* The administrative officer for processing preservation plans, for planning, developing, coordinating, and implementing historic, architectural and archeological preservation projects and activities, and for executing and furthering the purposes of Article XIII.

*Historic protection area.* The portion of a property in an historic preservation zoning district designed to preserve the historic features of the property in their historic setting and meeting the standards set forth in Section 10B-387. Historic protection areas shall be designed as a result of development application review on sites for which pre-mapped preservation areas have not been established by ordinance.

*Historic site.* Any real property, human-made structure, natural object or configuration, or any portion or group of the foregoing having historical, archeological, cultural, scenic or architectural significance so identified in the Master Plan or designated by the Council pursuant to *N.J.S.A.* 40:55D-65.1.

*Historic structure.* Any functional construction or the elements or remains of such construction associated with human activities, including an archeological site, having historical, archeological, cultural, scenic or architectural significance, provided that such structure that is not located with a historic preservation district shall be treated as an historic structure only if so listed in the Princeton Master Plan or has been designated by the Council pursuant to *N.J.S.A.* 40:55D-65.1.

*Interested party.* Any citizen of the State of New Jersey in the case of a criminal or quasicriminal proceeding; and in the case of a civil proceeding in any court or an administrative proceeding before a municipal agency, any person, whether residing within or without the municipality, whose right to use, acquire, or enjoy property is or may be affected by any action taken under this chapter, or whose right to use, acquire, or enjoy property under this chapter, or under any law of New Jersey or of the United States has been denied, violated or infringed by an action or a failure to act under this chapter.

*Land.* Includes improvements and fixtures on, above or below the surface.

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

*Maintenance guarantee.* Any security, other than cash, that may be accepted by the municipality for the maintenance of any improvements required by this chapter.

*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 or region adopted pursuant to Article V of this Chapter.

*Minor site plan.* A development of one or more lots, that: (a) proposes new development within the scope of development specifically permitted by ordinance as a minor site plan; (b) does not involve planned development, any new street or extension of any off-tract improvement that is to be prorated pursuant to Section 30 of the Municipal Land Use Law (N.J.S.A. 40: 55D-42); and (c) contains the information reasonably required in order to make an informed determination as to whether the requirements established by this chapter for approval of a minor site plan have been met.

*Minor subdivision.* A subdivision of land for the creation of not more than two lots; provided that such subdivision does not involve a planned development, or any new street, or the extension of any off-tract improvement the cost of which is to be prorated pursuant to Section 30 of the Municipal Land Use Law (N.J.S.A. 40: 55D-42).

*Municipal agency.* The Planning Board, Zoning Board of Adjustment or Princeton Council, or any agency created by or responsible to the municipality, when acting pursuant to this chapter.

*Municipal engineer.* The person appointed to such position by the Princeton Council or such person's designee.

*Municipal Land Use Law.* Chapter 291 of the Laws of New Jersey, 1975 as amended from time to time.

*Municipal officer.* Any person whether compensated or not, whether part-time or full-time: (1) elected to any office of a municipal agency; (2) serving on a municipal agency which has the authority to enact ordinances, approve development applications or grant zoning variances; (3) who is a member of an independent municipal, county or regional authority; or (4) who is a managerial executive or confidential employee of a municipal agency, as defined in Section 3 of

the “New Jersey Employer-Employee Relations Act,” P.L.1941, c.(N.J.S.A. 34:13A-3), but shall not mean any employee of a school district or member of a school board.

*Municipal official.* A municipal officer.

*Municipality.* Princeton.

*Nonconforming lot.* A lot the area, dimensions and location of which were lawful prior to the adoption, revision or amendment of a zoning ordinance but that 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, dimensions and location of which were lawful prior to the adoption, revision or amendment of a zoning ordinance, but that 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 that was lawful prior to the adoption, revision or amendment of a zoning ordinance, but that fails to conform to the requirements of the zoning district in which it is located by reason of such adoption, revision or amendment.

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

*Off-tract.* Located neither on the property that is the subject of a development application nor on a contiguous portion of a street or right-of-way.

*Onsite.* Located on the lot in question.

*On-tract.* Located on the property that is the subject of a development application or on a contiguous portion of a street or right-of-way.

*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 offstreet parking and other improvements that are designed to be incidental to the natural openness of the land.

*Ordinary maintenance.* The repair of any deterioration, wear or damage to a structure, or any part thereof, in order to return the same as nearly as practicable to its condition prior to the occurrence of such deterioration, wear, or damage. Ordinary maintenance shall further include replacement of exterior elements or accessory hardware, including signs, using the same materials and having the same appearance and painting which is not an alteration.

*Overlay zone district.* A zoning district made up of underlying zone districts or parts of zone districts as shown on the Zoning Map. An overlay zone district controls certain standards and procedures for covered areas not inconsistent with the bulk and use requirements of the underlying zone districts.

*Parcel.* An area of land formally described and recorded with block and lot numbers, by metes and bounds, by ownership, or in such a manner as to specifically identify the dimensions and/or boundaries.

*Performance guarantee.* Any security that may be accepted by the municipality, including cash, provided that the municipality shall not require more than ten percent of the total performance guarantee in cash.

*Planned development.* Planned unit development, planned unit residential development, residential cluster, planned commercial development or planned industrial development.

*Planned unit residential development.* An area with a specified minimum contiguous acreage of 5 acres or more to be developed as a single entity according to a plan containing one or more residential clusters, which may include appropriate commercial or public or quasi-public uses, all primarily for the benefit of the residential development.

*Planning Board.* The Planning Board established by Article II of this chapter.

*Plat.* A map or maps of a subdivision or site plan.

*Preliminary approval.* The conferral of certain rights as to site plans and major subdivisions pursuant to this chapter prior to final approval and after specific elements of a development plan have been approved by the Planning Board or Zoning Board of Adjustment.

*Preliminary floor plans and elevations.* Architectural drawings prepared during early and introductory stages of the design of a project, illustrating in a schematic form its scope, scale and relationship to its site and immediate environs.

*Preservation area.* The portion of a property in an historic preservation district pre-mapped by ordinance or, if not pre-mapped, established during preservation plan review and designed to preserve the historic features of the property in their historic setting.

*Preservation plan.* The application and accompanying documents required by Article XIII of this chapter and by the rules of the Historic Preservation Commission for any action for which preservation plan approval is required.

*Public areas.* Public parks, playgrounds, trails, paths and other recreational areas and public open spaces; scenic and historic sites; and sites for schools and other public buildings and structures.

*Public drainage way.* The land reserved or dedicated for the installation of storm water sewers or drainage ditches, or required along a natural stream or watercourse for preserving the biological

as well as drainage function of the channel and providing for the flow of water to safeguard the public against flood damage, sedimentation and erosion and to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical and to lessen nonpoint pollution.

*Public open space.* An open space area conveyed or otherwise dedicated to the municipality, a municipal agency, the regional board of education, a state or county agency, or any other public body for recreational or conservational uses.

*Quorum.* The majority of the full authorized membership of a municipal agency.

*Residential cluster.* An area to be developed as a single entity according to a plan containing residential housing units that have a common or public open space area as an appurtenance.

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

*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. Not included are conveyances merely combining existing lots by deed or other instrument.

*Sedimentation.* The deposit of soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a product of erosion.

*Site plan.* A development plan of one or more lots on which is shown: (i) the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes, and waterways; (ii) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress or egress, drainage facilities, utility services, landscaping, structures and signs, lighting, and screening devices; and

(iii) any other information that may be reasonably required in order to make an informed determination as to approval of the plan by the Planning Board or Zoning Board of Adjustment pursuant to this chapter.

*Special permit.* A permit directed to be issued pursuant to Section 10B-119 for a building or structure in the bed of a mapped street, drainage way, flood control basin or public area or pursuant to Section 10B-120 for the erection of a building or structure on a lot that does not abut a street.

*Stream corridor.* See definition of “Waterway Corridor” in Section 10B-203.

*Street.* Any street, avenue, boulevard, road, parkway, viaduct, drive or other way: (i) that is an existing state, county or municipal roadway; (ii) shown upon a plat heretofore approved pursuant to law; (iii) approved by official action as provided by this chapter; or (iv) shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a Planning Board and the grant to such Board of the power to review plats; including the land between the street lines, whether improved or unimproved, and whether or not comprising pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas.

*Structure.* A combination of materials to form a construction for occupancy, use, or ornamentation whether installed on, above, or below the surface of a parcel of land. The word structure for purposes of this Chapter shall not apply to service utilities entirely below the ground, nor shall it apply to tents used in connection with reunions of alumni of educational institutions or tents or fences used for private social affairs such as weddings and parties and in place for two weeks or less.

*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 new streets are created: (a) divisions of land found by the Planning Board or subdivision committee thereof appointed by the Chair to be for agricultural purposes where all resulting parcels are five acres or larger in size; (b) divisions

of property by testamentary or intestate provisions; (c) divisions of property upon court order, including but not limited to judgments of foreclosure; (d) consolidation of existing lots by deed or other recorded instrument; and (e) 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 municipal development regulations and are shown and designated as separate lots, tracts or parcels on the tax map of the municipality. The term "subdivision" shall also include the term "resubdivision".

*Tract.* An area of land that is the subject of a development application.

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

*Underlying zone district.* A zoning district that forms a constituent part of an overlay zone district. Underlying zone districts control bulk and use requirements.

*Variance.* A variance from zoning regulations granted pursuant to Section 10B-13(c) or -13(d).

*Zoning Board of Adjustment.* The Board established by Article III of this chapter.

*Zoning officer.* The person appointed by the Princeton Council to exercise the functions set for such position in this chapter.

*Zoning permit.* A document signed by the Zoning Officer that: (i) is required by zoning regulations as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure, including signage, fences, and walks, or building; (ii) acknowledges that such use, structure or building complies with the zoning regulations or duly authorized variance therefrom; and (iii) does not involve approval of a development application by the Planning Board or Zoning .

### **Sec. 10B-3. Exemptions for uses operated by local units of government.**

Uses operated by the municipality and by its agencies and boards shall be exempt from the provisions of the municipality's land use regulations.

## **ARTICLE II. Planning Board.**

### **Sec. 10B-4. Planning Board established; membership; voting rights; limitations.**

The Planning Board heretofore created is continued and is hereby established pursuant to N.J.S.A. 40:55D-1 et seq. It shall consist of nine members in the following four classes:

- (a) Class I: The Mayor or the Mayor's designee in the absence of the Mayor.
- (b) Class II: one of the officials of the municipality other than a member of the Princeton Council to be appointed by the Mayor, provided that if there is a member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 that person shall be deemed to be the Class II Planning Board member if there is both a member of the Zoning Board of Adjustment and a member of the Board of Education among the Class IV members.
- (c) Class III: a member of the Princeton Council to be appointed by it.
- (d) Class IV: six other citizens of the municipality to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, except that one member may be a member of the Zoning Board of Adjustment or the Historic Preservation Commission and one member may be a member of the Board of Education. A member of the Environmental Commission who is also a member of the Planning Board as required by N.J.S.A. 40:56A-1 shall be a Class IV Planning Board member unless there be among the Class IV or alternate members of the Planning Board both a member of the Zoning Board of Adjustment or the Historic Preservation Commission and a member of the Board of Education, in which case the member of the Environmental Commission shall be deemed to be the Class II member of the Planning Board.
- (e) Alternates: In accordance with N.J.S.A. 40:55D-23.1, there are hereby created two alternate memberships to the Princeton Planning Board. Alternate members shall be appointed by the Mayor for Class IV members and shall meet the qualifications for Class IV members of the nine-member Planning Board. Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1" and "Alternate No. 2." The terms of the

alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two years. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.

(1) Alternate members may participate in discussions of the proceedings, but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

(f) Other provisions.

(1) All regular and alternate members except the Class II member shall be residents of Princeton.

(2) Except as otherwise permitted, Class IV members and alternate members shall hold no other municipal office or employment. For purposes of this section, 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 municipal office.

(3) Members of the Planning Board shall serve without compensation, but may be reimbursed for expenses authorized in advance and incurred in the performance of their duties.

(4) No members or alternate members shall be permitted to act on any matter in which they have, directly or indirectly, any personal or financial interest.

(5) Except for members exempted by statute from this requirement, persons who serve as members or alternate members of the Planning Board shall be required to complete an approved basic course in land use law and planning within 18 months of their appointment in accordance with the provisions of *N.J.S.A. 40:55D-23.3(b)* and (c).

#### **Sec. 10B-5. Terms.**

(a) The term of the member composing Class I shall correspond with the Mayor's official tenure or, if the member is the Mayor's designee in the absence of the Mayor, the

designee shall serve at the pleasure of the Mayor during the Mayor's official tenure. The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office, whichever occurs first.

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

(c) The term of any alternate member shall be two years. The terms of alternate members shall be staggered.

(d) Removal from office. Any member including an alternate member of the Planning Board other than the Class I member may be removed by the Princeton Council for cause after a public hearing, if the member requests one.

(e) Vacancies. If a vacancy in any class of the Planning Board occurs other than by expiration of the term, it shall be filled by appointment, as provided herein, for the unexpired term.

#### **Sec. 10B-6. Organization of the Board.**

The Planning Board shall elect a chair and vice chair from the members of Class IV, select a secretary who may or may not be a member or alternate member of the Planning Board or a municipal employee, and create and fill such other offices as are established by ordinance. An alternate member may not serve as chair or vice chair of the Planning Board.

#### **Sec. 10B-7. Members of Zoning Board of Adjustment Serving as Temporary Members of the Planning Board.**

If the Planning Board lacks a quorum because any of its regular or alternate members is prohibited by subsection b. of section 14 of P.L.1975, c.291 (C.40:55D-23) or section 13 of

P.L.1979, c.216 (C.40:55D-23.1) from acting on a matter due to the member's personal or financial interests therein, regular members of the Zoning Board of Adjustment shall be called upon to serve, for that matter only, as temporary members of the Planning Board in order of seniority of continuous service to the Zoning Board of Adjustment until there are the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest therein, whether direct or indirect. If a choice has to be made between regular members of equal seniority, the chair of the Zoning Board of Adjustment shall make the choice.

**Sec. 10B-8. Powers and duties.**

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 taken of testimony, the provisions of the County and Municipal Investigations Law of 1953 (N.J.S.A. 2A:67A et seq.) shall apply. The Board shall also have the following powers and duties:

(a) Master Plan. To prepare and adopt and from time to time amend a master plan for the physical development of the municipality in accordance with the provisions of N.J.S.A. 40:55D-1 et seq. The Board may make such additional surveys and studies as may be necessary or desirable to carry out its duties.

(b) Administration of chapter. To administer the provisions of this chapter, including review of subdivisions, site plans, conditional uses and waivers and of variances, directed issuance of permits, and preservation plans coming within its jurisdiction.

(c) Development regulations. To consider and make reports to the Princeton Council within 35 days after referral as to any proposed development regulation or amendment thereto submitted to it pursuant to the provisions of N.J.S.A. 40:55d-26(a) and also pass upon other matters specifically referred to the Planning Board by the Princeton Council pursuant to the provisions of N.J.S.A. 40:55D-26(b) and any other matters as the Board deems appropriate.

(d) Capital improvement program. If authorized by Princeton Council, prepare a program of municipal capital improvement projects as set forth in N.J.S.A. 40:55D-29.

(e) Long range facility plan. To review and issue findings pursuant to N.J.S.A. 40:55D-31b concerning any long-range facilities plan submitted to the Board as required by the “Educational Facilities Construction and Financing Act,” P.L.2000, c. 72 (C.18A:7G-1 et al.)

(f) Public expenditure review. To review and make recommendations in conjunction with the Master Plan of any action undertaken by Princeton Council or any other public agency having jurisdiction over the subject matter necessitating the expenditure of any public funds incidental to the location, character or extent of such project within 45 days of referral of such action for review. This referral requirement shall apply to Princeton Council and to action by a housing, parking, highway, special district, or other authority, redevelopment agency, board of education or other similar public agency, State, county or municipal and to any public entity taking any action to permit the location, erection, use or maintenance of an outdoor advertising sign required to be permitted pursuant to P.L. 1991, c. 413 (C.27:5-5 et seq).

(g) Outside agency reviews. To participate in the preparation and review of programs or plans required by state or federal law or regulations.

(h) Continued planning. To assemble data on a continuing basis as part of a continuous planning process.

(i) Advisory duties. To perform such other advisory duties as are assigned to it by ordinance or resolution of the Princeton Council for the aid and assistance of the Princeton Council or other agencies or officers.

(j) Other referrals. The Princeton Council may by ordinance provide for the reference of any matter or class of matters to the Planning Board before final action thereon by a municipal body or municipal officer having final authority thereon, except for any matter under the jurisdiction of the Zoning Board of Adjustment.

(k) Adoption of bylaws. The Planning Board is authorized to adopt bylaws and other rules governing its procedural operation.

**Sec. 10B-9. Powers as to applications for development; powers in lieu of Zoning Board of Adjustment; informal applications.**

(a) The Planning Board shall receive, review and act upon applications for approval of subdivision plats, site plans and conditional uses, except where such authority is conferred

upon the Zoning Board of Adjustment in conjunction with the Zoning Board of Adjustment's review of applications for approval of variances pursuant to N.J.S.A. 40:55D-70d.

(b) The Planning Board, in lieu of the Zoning Board of Adjustment and to the same extent and subject to the same restrictions as such Board, shall receive, review, and act upon applications or appeals for variances pursuant to N.J.S.A. 40:55D-70c and applications for special permits, but only in conjunction with the Planning Board's review of applications for approval of subdivision plats, site plans or conditional uses.

(c) 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.

#### **Sec. 10B-10. Site Plan Review Advisory Board.**

(a) An advisory committee to be known as the Site Plan Review Advisory Board (SPRAB) is hereby created for purpose of reviewing site plans and making recommendations to the Planning Board and the Zoning Board of Adjustment. It shall consist of eight regular members and two alternate members. Six of the regular members and the two alternate members shall be appointed by the Mayor. Two of the regular members shall be appointed by the Environmental Commission from among its members, each to serve for a term of one year. The term of office of the other regular members of the Site Plan Review Advisory Board shall be four years, and the term of office of the alternate members shall be two years. The terms of office shall be computed from the first day of January of the year of each appointment. Of the first regular members appointed by the Mayor, one shall be for a term of one year, two for a term of two years, one for a term of three years, and two for a term of four years. Of the first appointments of alternate members, one shall be for a term of one year and one for a term of two years. At the time of their appointments, alternate members shall be designated as "Alternate No. 1" and "Alternate No. 2." Vacancies in regular or alternate membership shall be filled in the same manner as appointments are made, and those occurring other than by expiration of a term shall be filled for the unexpired term only. Members shall serve after the expiration of their terms until their successors shall be appointed and qualified. Insofar as practicable, appointees shall be architects, landscape architects, planners, engineers or other persons qualified in site planning or sustainable design or environmental design or protection. Alternate members may

participate in discussions of the proceedings, but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

(b) The Site Plan Review Advisory Board shall advise and assist the board of jurisdiction in reviewing site plan applications in the manner prescribed in this chapter. It shall have no power to take any official action required of the board of jurisdiction. Nothing herein shall be construed as precluding the advisory board from inspecting site developments and making reports and recommendations as to their progress and as to their compliance with the requirements of this chapter.

(c) The Site Plan Review Advisory Board shall consult with the Health Commission, the Traffic Safety Committee, Shade Tree Commission, Engineering Department, Department of Emergency and Safety Services, Planning Board, and Zoning Board of Adjustment, as deemed necessary or desirable.

### **ARTICLE III. Zoning Board of Adjustment.**

#### **Sec. 10B-11. Zoning Board of Adjustment established; composition; terms; vacancies; disqualification of members; alternate members; officers.**

(a) The Zoning Board of Adjustment heretofore created is continued and is hereby established pursuant to N.J.S.A. 40:55D-1 et seq.

(b) The Board shall consist of seven regular members and two alternate members.

(c) Regular members shall be appointed by the Princeton Council for terms of four years each, computed from January 1 of the year of their appointment, except that full terms of regular members filled for the first time under this article shall be so fixed (for four or less years) and arranged so that, to the greatest practicable extent, the expiration of all terms of regular members will be distributed evenly over the first four years after the initial appointment under this chapter.

(d) Alternate members shall also be appointed by the Princeton Council, and their terms shall be two years each, computed from January 1 of the year of their appointment, except that of the appointments to alternate membership first made under this chapter, one shall be for a

term of one year. They shall be designated by the Princeton Council at the time of their appointment as "Alternate No. 1" and "Alternate No. 2."

(e) A vacancy occurring in either type of membership otherwise than by expiration of a term shall be filled for the unexpired term only.

(f) No regular or alternate members may hold any elective office or other municipal office in the Municipality, nor shall any members be permitted to act on any matter in which they have, directly or indirectly, any personal or financial interest.

(g) Alternate members may participate in discussions of the proceedings, but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

(h) Officers. The Zoning Board of Adjustment shall elect a chair and a vice-chair from among its members and shall also select a secretary, who may but need not be a member of the Board.

(i) Except for members exempted by statute from this requirement, persons who serve as members or alternates member of the Zoning Board of Adjustment shall be required to complete an approved basic course in land use law and planning within 18 months of their appointment in accordance with the provisions of *N.J.S.A. 40:55D-23.3(b)* and (c).

**Sec. 10B-12. Members of Planning Board serving as temporary members of the Zoning Board of Adjustment.**

If the Zoning Board of Adjustment lacks a quorum because any of its regular or alternate members is prohibited by section 56 of P.L. 1975, c.291 (C.40:55D-69) from acting on a matter due to the member's personal or financial interest therein, Class IV members of the Planning Board shall be called upon to serve, for that matter only, as temporary members of the Zoning Board of Adjustment. The Class IV members of the Planning Board shall be called upon to serve in order of seniority of continuous service on the Planning Board until there are the minimum number of members necessary to constitute a quorum to act upon the matter without any personal or financial interest therein, whether direct or indirect. If a choice has to be made between Class IV members of equal seniority, the Chair of the Planning Board shall make the choice.

**Sec. 10B-13. Powers as to appeals, interpretations and variances.**

The Zoning Board of Adjustment shall have the power to:

(a) Appeals. Hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by any municipal official based on or made in enforcement of the zoning ordinance;

(b) Interpretations. Hear and decide requests for interpretation of the zoning map or ordinance;

(c) Hardship and flexible “c” variances.

(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 zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property, grant, upon an application or an appeal relating to such property, a variance from such strict application of such regulation so as to relieve such difficulties or hardship;

(2) Where in an application relating to a specific piece of property the purposes of the Municipal Land Use Law (N.J.S.A. 40:55D-1 et seq.) or of the Educational Facilities Construction and Financing Act (N.J.S.A. 18A:7G-1 et al.) would be advanced by deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from zoning regulations; provided, however, that the fact that a proposed use is an inherently beneficial use shall not be dispositive of a decision on a variance under this subsection and provided that no variance from those departures enumerated in Section 10B-13(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 Section 10B-13(c).

(d) Grant a variance to allow departure from zoning regulations in particular cases and for special reasons 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 pertaining solely to a conditional use, (4) an increase in the permitted floor area ratio, or (5) an increase in the permitted density as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision, or (6) a height of a principal structure which exceeds by ten feet or ten percent the maximum height permitted in the district for a principal structure. A variance under this subsection shall be granted only by the affirmative vote of at least five members.

(e) No variance or other relief may be granted under the terms of this section, including a variance or other relief involving an inherently beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance.

**Sec. 10B-14. Powers in lieu of the Planning Board as to subdivisions, site plans and conditional uses.**

(a) The Zoning Board of Adjustment, in lieu of the Planning Board and to the same extent and subject to the same restrictions as such board, shall receive, review and act upon applications for approval of subdivision plats, site plans and conditional uses, but only in conjunction with the Zoning Board of Adjustment's review of applications for approval of variances pursuant to Section 10B-13(d).

(b) 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 the grant of all required subsequent approvals by the Zoning Board of Adjustment. No such subsequent approval shall be granted unless such approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning ordinance. The number of votes of Board members required to grant any such subsequent approval shall be as otherwise provided in this chapter for the approval in question, and the special vote for variances pursuant to Section 10B-13(d) shall not be required.

**Sec. 10B-15. Powers as to special permits.**

The Zoning Board of Adjustment shall receive, review and act upon appeals or applications for the issuance of special permits, except where such authority is conferred upon the Planning Board in conjunction with the Planning Board's review of applications for approval of subdivision plats, site plans or conditional uses.

**Sec. 10B-16. Annual report.**

The Zoning 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 ordinance provisions which were the subject of variance requests and its recommendations for zoning ordinance amendment or revision, if any. The Zoning Board of Adjustment shall send copies of the report and resolution to the Princeton Council and Planning Board.

**Sec. 10B-17. Appeals to Zoning Board of Adjustment from administrative decisions; direct application in lieu of appeal.**

(a) Appeals to the Zoning Board of Adjustment may be taken by any interested party affected by any decision of any official of the municipality based on or made in the enforcement of the zoning ordinance. Such appeal shall be taken within twenty days by filing a notice of appeal with the administrative officer and with the official from whom the appeal is taken, specifying the grounds of such appeal. The official from whom the appeal is taken shall immediately transmit to the Board through the administrative officer all the papers constituting the record upon which the action appealed from was taken.

(b) A developer may file an application for development with the Zoning Board of Adjustment for action under any of its powers without prior application to any municipal official.

**Sec. 10B-18. Stay of proceedings by appeal; exception.**

An appeal to the Zoning Board of Adjustment shall stay all proceedings in furtherance of the action with respect to which the decision appealed from was made unless the officer from whose action the appeal is taken certifies to the Zoning Board of Adjustment, after the notice of appeal has been filed, that by reason of facts stated in the certificate a stay would, in the opinion of the officer, cause imminent peril to life or property. In such case, proceedings shall not be stayed

other than by an order of the Superior Court upon notice to the officer from whom the appeal is taken.

**Sec. 10B-19. Decision on appeal.**

The Zoning Board of Adjustment may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation, or determination appealed from and to that end have all the powers of the official from whom the appeal is taken.

**ARTICLE IV. Administration and Procedure in General.**

Division 1. General Provisions.

**Sec. 10B-20. Rules and regulations of municipal agencies.**

Every municipal agency shall adopt and may amend reasonable rules and regulations, not inconsistent with the Municipal Land Use Law or this chapter, for the administration of its functions, powers and duties, including hearings, and shall furnish a copy thereof to any person upon request and may charge a reasonable fee for such copy. Copies of all such rules and regulations and amendments thereto shall be maintained in the office of the administrative officer.

**Sec. 10B-21. Published and mailed notices.**

(a) Whenever any notice by publication is required or permitted under the provisions of this chapter, it shall be published in the official newspaper of the municipality, if there be one, or in a newspaper of general circulation in the municipality.

(b) Whenever any notice is required or permitted to be given by certified mail under the provisions of this chapter, such mailed notice shall be deemed complete upon mailing.

**Sec. 10B-22. Experts and staff.**

The Planning Board and Zoning Board of Adjustment may employ or contract for and fix the compensation of legal counsel, other than the Municipal Attorney, and experts and other servicing personnel as it may deem necessary not exceeding, exclusive of gifts or grants, the amount appropriated by the Princeton Council for its use.

**Sec. 10B-23. Appropriations.**

The Princeton Council shall make provision in its budget for an appropriate fund for the expenses of the Planning Board and Zoning Board of Adjustment.

**Sec. 10B-24. Conflicts of Interest.**

Members of the Planning Board, Zoning Board of Adjustment or other municipal agency shall not act on any matter in which they have either directly or indirectly any personal or financial interest. Whenever any such members disqualify themselves from acting on a particular matter, they shall not continue to sit with the board on the hearing of such matter and shall not participate in any discussion or decision relating thereto.

Division 2. Meetings of Municipal Agencies.

**Sec. 10B-25. Regular meetings.**

Every municipal agency shall hold regular meetings at the times and places fixed by its rules. Regular meetings shall be scheduled not less than once a month and shall be held as scheduled unless canceled for lack of applications for development to process.

**Sec. 10B-26. Special meetings.**

Special meetings may be provided for at the call of the Chair or at the request of any two members, and such shall be held on notice to the members and the public in accordance with applicable legal requirements.

**Sec. 10B-27. Open to public.**

All regular and special meetings shall be open to the public, and notice thereof shall be given in accordance with the requirements of the Open Public Meetings Act, P.L. 1975, c. 231. 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.

**Sec. 10B-28. Actions at meetings; quorum.**

No action except adjournment shall be taken at any meeting without a quorum being present. All actions shall be taken by a majority vote of the members present at the meeting, except as otherwise provided in this chapter or required by law. 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.

**Sec. 10B-29. Voting by members notwithstanding absence from meetings.**

Members of a municipal agency who were absent for one or more of the meetings at which a hearing was held shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding their absence from one or more of the meetings; provided, however, that such members have available to them the transcript or recording of all of the hearings from which they were absent and certify in writing to the agency that they have read such transcript or listened to such recording.

**Sec. 10B-30. Minutes.**

Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the municipal agency and the persons appearing by attorney, the action taken by the agency, the findings, if any, made by it and the reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Planning Board or Zoning Board of Adjustment, as the case may be, and shall be posted on the municipal website.

Division 3. Applications and Appeals to Planning Board and Zoning Board of Adjustment.

**Sec. 10B-31. Forms.**

Whenever an application for development to the Planning Board or Zoning Board of Adjustment is permitted or required by this chapter, it shall be in such form, submitted to the administrative officer in such number of copies, and accompanied by such maps, documents and materials as are prescribed by rule of the board and by this chapter.

**Sec. 10B-32. Application fees; educational training fees; escrow deposits and inspection fees.**

(a) Each such application for development shall be accompanied by payment of an application fee, escrow deposit and inspection fee to the municipality. In addition, pursuant to

N.J.A.C. 5:87-1.6(b), each application for development, including administrative waivers, shall pay an educational training fee in the amount of thirty dollars. Application fee/educational training fee and escrow deposits shall be provided in separate payment as follows:

<b><u>Application</u></b>	<b><u>Application Fee</u></b>	<b><u>Escrow Account</u></b>
Administrative waiver (Section 10B--) <b> [206(d)]</b>	\$325.00	\$500.00
Classification of minor site plan	\$400.00	\$2,000.00
Conditional use	\$375.00	\$1,000.00
Education Fee	\$30.00	None
Issuance of a permit (other than provided for in this section)	\$100.00	None
Modifications of approved site plan or subdivision	\$400.00	\$2,000.00
Preliminary major subdivision approval	\$500.00 plus \$ 25.00 per lot	\$300.00 per lot for first ten lots; \$100.00 per lot thereafter. Minimum deposit of \$3,000.00
Final major subdivision	\$250.00	\$1,000.00 plus \$100.00 per lot
Preliminary site plan approval involving a related application for preliminary major subdivision approval and/or preliminary cluster approval (subject to an additional fee as required by Section 10B--) <b> [216]</b>	\$500.00	\$200.00 per acre or part thereof and \$25.00 per dwelling. Minimum deposit of \$3,000.00

<b><u>Application</u></b>	<b><u>Application Fee</u></b>	<b><u>Escrow Account</u></b>
Preliminary site plan approval not involving a related application for preliminary major subdivision approval and/or preliminary cluster approval	\$25.00 per 1,000 square feet or part thereof of building construction.	\$150.00 per 1,000 square feet or part thereof of building construction. Minimum deposit of \$4,000.00
Final site plan approval	\$300.00	\$2,000.00 plus \$100.00 per 1,000 sf of building (when not involving a cluster application)
Request for zone change	\$1,500.00	\$2,000.00
Review of Section 10B-__ [227.16] project site stormwater management submission requirements	None	\$1,500.00 pursuant to section 10B-216
Request for Master Plan Amendment	\$1,000.00	\$2,500.00
Residential cluster developments involving units with zero lot lines	\$250.00 plus \$10.00 per zero lot line unit.	\$50.00 per zero lot line unit. Minimum deposit of \$2,500.00
Section 10B-53 list of property owners	\$0.25 per name, or \$10.00, whichever is greater	None
Section 10B-13(c) zoning variance relief	\$200.00 per variance except for 1 and 2 family dwellings which shall be \$150.00 for all variances sought.	\$750.00
Section 10B-13(d) zoning variance relief	\$500.00	\$1,500.00

<b><u>Application</u></b>	<b><u>Application Fee</u></b>	<b><u>Escrow Account</u></b>
Section 10B-53 public utility registration		
Initial registration	\$10.00	None
Annual registration	\$5.00	None
Section 10B-63 publication charge	\$35.00	None
Site plan concept review	\$400.00	\$100.00 per 1,000 sf or part thereof of building construction. Minimum deposit of \$2,500.00
Soil erosion permit	\$100.00	\$200.00
Subdivision classification or minor subdivision	\$400.00	\$2,000.00
Subdivision concept review	\$400.00	\$100.00 per lot for first 10 lots; \$75.00 per lot thereafter. Minimum deposit of \$2,500.00.
Waivers from design standards	\$100.00	None
Zoning relief or variance from official error, and zoning board interpretation on zoning regulation	\$50.00	\$250.00
Zoning Permits:		
Commercial		
a. Signs	\$80.00	None
b. Use inquiries/ certifications	\$80.00	None
c. Any other non residential permits	\$80.00	None

<b><u>Application</u></b>	<b><u>Application Fee</u></b>	<b><u>Escrow Account</u></b>
Residential		
a. 1-2 family buildings	\$100.00	None
b. Additions	\$75.00	None
c. Accessory structures	\$60.00	None
d. AC units	\$60.00	None
e. Flats (apartments)	\$100.00	None

(b) Each application for preservation plan approval, whether or not part of an application for development, shall be accompanied by payment of an application fee, escrow deposit and, to the extent otherwise provided, an inspection fee to the municipality.

<b><u>Type of Structure or Application</u></b>	<b><u>Preservation Plan Application Fee</u></b>	<b><u>Escrow</u></b>	<b><u>Other Applicable Fees</u></b>
Residential Structure (no variance)	\$75.00	No Escrow Fees	None
Residential Structure – variance, use, conditional use, etc.	\$75.00	All applicable	All applicable fees
Commercial Structure	\$75.00	All applicable	All applicable fees

(c) The application fee as set forth hereinabove is a flat fee to cover direct administrative expenses and other than professional services and is nonrefundable. The escrow account as set forth hereinabove is established to cover the cost of professional services, including but not limited to engineering, professional planning, stenographic shorthand reporting, legal, landscape consulting by landscape architects or other professionals, if appropriate, and other expenses connected with the review of submitted materials, the related hearing process and follow-up thereto, including costs incurred during any review of a concept plan. The applicant shall execute an escrow agreement to authorize payment of said expenses. Sums not utilized in the review process shall be returned to the applicant within a reasonable period of time after the Finance Officer certifies that all professional services to be paid by

escrow funds have been completed and billed. Unless the applicant otherwise requests, unexpended escrow deposits for concept reviews shall be credited against deposits due upon the filing of an application for development. If additional fees or escrow funds are deemed necessary, the applicant shall be notified of the required additional amount and shall add such sum to the account as required by the Planning Board or Zoning Board of Adjustment. Payment shall be due from the applicant within fifteen days of receipt of the notice. If at the time of the hearing, the applicant is in default of any required escrow payments or fees, the board of jurisdiction may deny the application. At the request of the applicant, the municipal finance officer shall provide the applicant with a statement of all escrow fees received, a list of amounts charged to the escrow account, and the amount of the current balance in the account. Whether or not specifically so stated, the current payment of all escrow fees which become due shall be a condition of the approval of any application.

Where applicable, no construction permit or certificate of occupancy shall be issued until all escrow charges have been paid. All escrow charges which are due and owing shall become a lien upon the premises with respect to which said charges are required and shall remain so until paid. Said overdue charges shall accrue the same interest from time to time as taxes upon real estate in the municipality. The municipality shall have the same remedies for the collection thereof with interest, cost and penalties as it has by law for the collection of taxes upon real estate. The applicant shall be responsible for all costs of collection of unpaid fees, including reasonable attorneys' fees. All escrow fees shall be administered by the municipality in accordance with the provisions of N.J.S.A. 40:55D-53.1.

Requests for waivers or modifications of application fees or escrow deposits shall be made to the Princeton Council and may be granted for good cause shown, such as, but not limited to, economic hardship, governmental relations, or in the interests of justice.

(d) In addition to the fees provided for herein, each applicant for development shall reimburse the municipality for all reasonable inspection fees required for inspections to be conducted pursuant to Section 10B-161(b). Prior to the issuance of any development permits, the developer shall deposit with the municipal treasurer, for placement in a special trust fund

account, a sum equal to five percent of the amount of the performance guarantee estimate of the cost of improvements to be built in the development to be applied to payment of inspection costs. If the inspection costs exceed such fund, the developer shall deposit with the municipal treasurer additional sums upon notice from the administrative officer. The inspection fee shall in no case be less than one hundred dollars. If the five percent of the amount of performance guarantee estimate of costs of improvement in the opinion of the municipality exceeds the anticipated reasonable inspection fees, the administrative officer shall adjust the deposit provided for hereinabove to reflect the anticipated inspection fees. The municipal treasurer shall return any balance of the inspection deposit to the developer upon expiration of the maintenance bond, together with the paid invoices for all expenses charged.

**Sec. 10B-33. Availability of applications to environmental commission.**

If the Environmental Commission has prepared and submitted to the Planning Board an index of the natural resources of the municipality or region, the Planning Board shall make available to the Environmental Commission an informational copy of every application for development submitted to the Planning Board. Failure to do so shall not invalidate any hearing or proceeding.

**Sec. 10B-34. Applications for conditional uses to include related site plans; simultaneous review of applications for conditional uses, site plans and subdivisions.**

(a) Each application for a conditional use shall include a request for any required site plan approval that is related thereto.

(b) The Planning Board shall have the power to review and approve or deny applications for conditional uses or site plans simultaneously with applications for subdivision approval without the developer being required to make further application to the Planning Board or the Planning Board being required to hold further hearings.

**Sec. 10B-35. Applications to Planning Board for subdivision, site plan or conditional use approval to include request for related hardship or flexible “c” variance or special permit.**

Each application to the Planning Board for approval of a subdivision plat, site plan or conditional use shall include a request for any hardship or flexible “c” variance within the Board's

jurisdiction and any special permit that is required in relation to such subdivision, site plan or conditional use.

**Sec. 10B-36. Applications to Zoning Board of Adjustment for use variance to include request for related subdivision site plan or conditional use approval.**

Each application to the Zoning Board of Adjustment for the granting of a variance pursuant to Section 10B-12(d) shall include a request for any subdivision, site plan and conditional use approval that is required in relation to such use variance.

**Sec. 10B-37. Completeness of applications.**

An application for development shall be complete for the purpose of commencing the applicable time period for action by a municipal agency when so certified by the administrative officer. In the event that the administrative officer does not certify the application to be complete within forty-five days of the date of its submission, the application shall be deemed complete upon expiration of the forty-five day period for the purposes of commencing the applicable time period unless (1) the application lacks information indicated on a checklist provided to the applicant pursuant to Section 10B-38 and (2) administrative officer has notified the applicant, in writing, of the deficiencies in the application within forty-five 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 forty-five days. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that the applicant is entitled to approval of the application. The municipal agency may subsequently require correction of any information found to be in error and submission of additional 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 revision in the accompanying documents so required by the municipal agency.

**Sec. 10B-38. Checklists.**

The checklists referred to in Section 10B-37 shall list the following applicable plans:

- (a) For subdivision sketch plat (including minor subdivision), the information required by Section 10B-157.
- (b) For preliminary plat of major subdivision, the information required by Section 10B-158.
- (c) For final plat of major subdivision, the information required by Section 10B-159.
- (d) For site plan classification (including minor site plan), the information required by Section 10B-207.1 in sketch plat form.
- (e) For preliminary and final site plan, the information required by Sections 10B-230 and -231.
- (f) For final site plan, the information required by Sections 17A-196 and 17A-197.
- (g) For an application for development that requests a variance pursuant to Section 10B-13(c) or (d) or a special permit and that is not accompanied by a site plan, the following information in sketch plat form:
  - (1) The size, shape and location of buildings and their relationship to surrounding properties and buildings thereon and on both sides of adjacent streets;
  - (2) The location, layout and dimensions of parking and loading areas, with an indication of areas to be paved;
  - (3) All parking spaces, driveways and access points to public streets;
  - (4) All required setback lines;
  - (5) Rights-of-way and easements;
  - (6) Location and height of fences, retaining walls and railings;
  - (7) Key map showing entire project in its relationship to surrounding areas, roads and watercourses;
  - (8) Zone districts of subject property and adjacent properties;
  - (9) Legend comparing proposed site conditions with zoning requirements applicable to the property; and
  - (10) Floor plans showing existing conditions and proposed alterations.

In addition, the checklist shall also indicate that the information to be included in the required application form, the required application fee and the submission of a fire protection plan in accordance with the requirements of Division 14 of this article are necessary for a complete application. It shall also provide for proof that property taxes are current.

The administrative officer shall prepare such checklists and shall furnish the same to applicants together with the appropriate application form.

**Sec. 10B-39. Incomplete applications for preliminary site plan or minor subdivision approval; applications deemed complete.**

If any application for development including an application for classification of the site plan or subdivision is found to be incomplete by the administrative officer or if it is not accompanied by the required fee, the applicant shall be so notified in writing of such fact and of the deficiencies by the administrative officer within forty-five days after the submission of the application, and the application shall be deemed not properly submitted until the deficiencies are corrected. If notice is not given within such period, the application shall be deemed to have been properly submitted.

Division 4. Hearings on Master Plan and Applications for Development.

**Sec. 10B-40. Hearing required.**

The municipal agency shall hold a hearing on each proposed adoption, amendment or revision of the master plan and on each matter for which notice is required pursuant to Section 10B-46(c). A hearing or proceeding held, or decision or recommendation made, by the Planning Board or Zoning Board of Adjustment shall not be invalidated if a member has participated in the hearing or proceeding or in the decision making or recommendation and that member is subsequently found not to have completed the basic course in land use law and planning required by *N.J.S.A.* 40:55D-23.3.

**Sec. 10B-41. Documents to be filed and available for public inspection; other documents.**

Any maps and documents proposed or for which approval is sought shall be on file and available for public inspection at least ten days before the date of the hearing during normal business hours in the office of the administrative officer. Other documents, records or testimony may be produced at the hearing to substantiate, clarify or supplement the previously filed maps and documents.

**Sec. 10B-42. Oaths and subpoenas.**

The officer presiding at the hearing, or such person as the officer may designate, shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence. The provisions of the County and Municipal Investigation Law, P.L. 1953, c. 38 (C. 2A:67A-1 et seq.) shall apply.

**Sec. 10B-43. Testimony of witnesses as to applications for development.**

The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer or board attorney, and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.

**Sec. 10B-44. Rules of evidence.**

Technical rules of evidence shall not be applicable, but the agency may exclude irrelevant, immaterial or unduly repetitious evidence.

**Sec. 10B-45. Recordings of proceedings; transcripts; cost.**

(a) The municipal agency shall provide for the verbatim recording of the proceedings by either stenographic, mechanical or electronic means and shall furnish a transcript, or duplicate recording in lieu thereof, on request to any interested party at his expense.

(b) If the agency elects to furnish a transcript, the person requesting the same shall deposit with the municipality at the time of the request the estimated cost of the transcript (calculated at the maximum permitted in N.J.S.A. 2A:11-15) for the purpose of defraying the cost of the transcript to the municipality. If the actual cost is less than the amount of the deposit, the difference shall be refunded to the depositor, but if the actual cost exceeds the amount of the deposit, the excess shall be paid by the depositor to the municipality upon demand.

(c) If the agency elects to furnish a duplicate recording of the proceedings in lieu of a transcript, the person requesting the same shall pay ten dollars for each tape of the recording to the municipality at the time of the request.

(d) Any transcript that is furnished by the municipal agency and any transcript of a duplicate recording that is obtained by an interested party for use by the municipal governing body on an appeal shall be certified in writing by the transcriber to be accurate.

Division 5. Notice of Hearings on Master Plan and Applications for Development.

**Sec. 10B-46. Notice required; length of notice; exceptions.**

(a) Notice of hearings shall be given by the Planning Board as to the proposed adoption, amendment or revision of the master plan.

(b) Notices of hearings shall be given by the applicant for:

(1) all applications for development, including all categories of site plan review, but not including final approvals of major subdivisions unless as part of the application relief is sought from the Planning Board or Zoning Board of Adjustment for a variance pursuant to Section 10B-12(c) (N.J.S.A. 40:55D-70c) or for a special permit pursuant to N.J.S.A. 40:55D-34 to 36;

(2) extensions of approvals for five or more years pursuant to N.J.S.A. 40:55D-49d and N.J.S.A. 40:55D-52b;

(3) modification or elimination of a condition or conditions in a memorializing resolution in any situation where the application being memorialized required public notice;

(4) appeals or determinations by the Zoning Officer pursuant to N.J.S.A. 40:55D-70a as to a specific property or properties; and

(5) for request for interpretation pursuant to N.J.S.A. 40:55D-70b as to a specific property or properties;

(c) Public notice shall be given by a public entity seeking to erect an outdoor advertising sign on land owed or controlled by a public entity as required pursuant to N.J.S.A. 40:55D-31 or by a private entity seeking to erect an outdoor advertising sign on public land or land owned by a public entity.

(d) Notices shall be given at least ten days prior to the date of the hearing, except as otherwise provided in this chapter as to applications for approval of minor subdivisions.

**Sec. 10B-47. Contents.**

The notice shall state the date, time and place of the hearing, the nature of the matter or matters to be considered and the location and times at which any maps and documents proposed or for which approval is sought are available in the office of the administrative officer. In addition, in the case of an application for development, the notice shall contain an identification of the property proposed for development by both street address, if any, and by reference to lot and block numbers as shown on the current tax duplicate in the municipal assessor's office. Notice of any application for development shall also include reference to all requests made in conjunction therewith, whether for approval of a site plan, subdivision, conditional use, variance, or special permit pursuant to N.J.S.A. 40:55D-34 or -36.

**Sec. 10B-48. Notice by publication required.**

Notice shall be given in all cases by publication in the official newspaper of the municipality, if there is one, or in a newspaper of general circulation in the municipality.

**Sec. 10B-49. Notice by personal service or certified mail to adjoining municipalities.**

Notice shall be given by personal service or certified mail to the clerk of any adjoining municipality in cases involving property located within two hundred feet of such municipality.

**Sec. 10B-50. Notice by personal service or certified mail to county planning board.**

Notice shall be given by personal service or certified mail to the county planning board in cases of proposed adoption, amendment or revision of the master plan and in cases of applications for development of property adjacent to an existing county road or a proposed road shown on the official county map or county master plan or property adjoining other county land or property situated within two hundred feet of a municipal boundary. Such notice shall also include any master plan proposed for adoption or any proposed amendment or revision thereof.

**Sec. 10B-51. Notice by personal service or certified mail to commissioner of transportation.**

Notice shall be given by personal service or certified mail to the Commissioner of the New Jersey Department of Transportation in cases of applications for development of property adjacent to a state highway.

**Sec. 10B-52. Notice by personal service or certified mail to the state planning commission.**

Notice shall be given by personal service or certified mail to the state planning commission in cases of applications for development of property exceeding one hundred fifty acres or five hundred dwelling units, and such notice shall include a copy of any maps or documents required to be on file with the administrative officer.

**Sec. 10B-53. Notice by personal service or certified mail to property owners; condominiums, etc.; list of property owners to be furnished.**

In all cases in which notice is required, notice shall be given to the owners of all real property, as shown on the current tax duplicate, located in the state and within two hundred feet in all directions of the property that is the subject of the hearing and to public utilities registering with the administrative officer by serving a copy thereof on such owners or their agents in charge of the property or mailing a copy thereof by certified mail to such owners at their address as shown on such tax duplicate. This requirement shall be deemed satisfied by notice to the condominium association in the case of any unit owner whose unit has a unit above or below it or by notice to the horizontal property regime in the case of any co-owner whose apartment has an apartment above or below it. Notice may be given to a partnership owner to any partner; a corporate owner to its president, a vice-president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation and to a registered public utility to the person whose name appears on the registration form. Notice to a condominium association, horizontal property regime, community trust or homeowners association required because of its ownership of common elements or areas located within two hundred feet of the property that is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners or homeowners on account of such common elements or areas. The administrative officer shall, within seven days after written request by the applicant, make and certify a list from the current tax duplicate of the names and addresses of the property owners and public utilities entitled to notice as aforesaid, and a sum as provided for in Section 10B-32(a) shall be charged for such list. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner not on the list shall not invalidate any hearing or proceeding.

**Sec. 10B-54. Proof of service.**

An affidavit of proof of the giving of notice as required by this division for any application for development shall be filed by the applicant with the municipal agency at or prior to the hearing.

**Sec. 10B-55. Notice of adjoining municipality, county planning board, commissioner of transportation and State Planning Commission not required in certain cases.**

Notice pursuant to Sections 10B-48 to -51 shall not be required unless notice by publication pursuant to Section 10B-45 and notice pursuant to Section 10B-52 are required.

Division 6. Notice of Adoption of Master Plan.

**Sec. 10B-56. Notice to county planning board of adoption required.**

Notice of each adoption, amendment or revision of the master plan shall be given to the county planning board by personal service or certified mail not more than thirty days after the date of such adoption, amendment or revision, and such notice shall include a copy of such adopted master plan, amendment or revision.

Division 7. Decisions on Applications for Development.

**Sec. 10B-57. Decisions to be reduced to writing and include findings and conclusions; resolution of memorialization; time limitations.**

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:

(a) A resolution adopted at a meeting held within the time period provided in this chapter and the Municipal Land Use Law for action by the municipal agency on the application for development; or

(b) A memorializing resolution adopted at a meeting held not later than forty-five 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 resulting from the failure of a motion to approve an application pursuant to Section 10B-27 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 the purposes of the mailings, filings and publications required by Sections 10B-60 to -62.

If the municipal agency fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested person may appeal 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 attorney's fees, shall be assessed against the municipality.

**Sec. 10B-58. County planning board approval.**

Whenever review or approval of any application by the county planning board is required by N.J.S.A. 40:27-6.3 or -6.6, the municipal agency shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or upon county planning board approval by default for failure to report thereon within the required time period.

**Sec. 10B-59. Developments barred by administrative or judicial order.**

In the event that a developer submits an application for development proposing a development that is barred or prevented, directly or indirectly, by a legal action instituted by any state agency, political subdivision or 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 in accordance with this chapter, and if such application complies with the requirements of this chapter, the municipal agency shall approve such application conditioned on removal of such legal barrier to development.

**Sec. 10B-60. Approval by other governmental agencies.**

In the event that a 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.

**Sec. 10B-61. Decisions to be furnished to applicant and others.**

A copy of each decision shall be mailed by the municipal agency within ten days after the date of decision to the applicant or, if represented, then to his attorney without separate charge and to all others upon request for a reasonable fee.

**Sec. 10B-62. Filing in office of administrative officer.**

A copy of each decision shall also be filed by the municipal agency in the office of the Planning Board or Zoning Board of Adjustment, who shall make a copy of the filed decision available to any interested party for a reasonable fee and available for public inspection at the office of the Planning Board or Zoning Board of Adjustment during reasonable hours.

**Sec. 10B-63. Publication.**

A brief notice of each decision shall be published by the administrative officer in the official newspaper of the municipality. The municipality shall charge pursuant to Section 10B-31 for such publication. The applicant also may cause such publication to be made. The time for appeal from the decision shall run from the date of the first publication, whether such is made by the administrative officer or the applicant.

**Sec. 10B-64. Time for decision on applications to Planning Board for preliminary approval of site plans and major subdivisions.**

Preliminary approval shall be granted or denied on applications to the Planning Board for a site plan of ten acres or less and ten dwelling units or less or for a major subdivision of ten or fewer lots within forty-five days and for a site plan of more than ten acres or more than ten dwelling units or for a major subdivision of more than ten lots within ninety-five days after the date of

submission of a complete application to the administrative officer, except as otherwise provided in Sections 10B-67 to -71.

**Sec. 10B-65. Time for decision on applications to Planning Board for minor subdivision approval and final approval of site plans and major subdivisions.**

Final approval of site plans and major subdivisions and approval of minor subdivisions shall be granted or denied on applications made to the Planning Board within forty-five days after the date of submission of a complete application to the administrative officer, except as otherwise provided in Sections 10B-67 to -71.

**Sec. 10B-66. Time for decision on application to Planning Board for conditional use approval.**

Approval of conditional uses shall be granted or denied on applications made to the Planning Board within ninety-five days after the date of submission of a complete application to the administrative officer, except as otherwise provided in Sections 10B-67 to -69.

**Sec. 10B-67. Time for decision on applications or appeals as to zoning regulations or for special permits pursuant to N.J.S.A. 40:55D-34 to -36.**

The municipal agency shall decide appeals or applications for variances, interpretations or decisions as to zoning regulations or for special permits pursuant to N.J.S.A. 40:55D-34 to 36, not later than one hundred and twenty days after the date an appeal is taken from the action of the municipal official or administrative officer, or after a complete application is submitted to the administrative officer, except as otherwise provided in Section 10B-68.

**Sec. 10B-68. Time for decision when Planning Board reviews conditional uses or site plans simultaneously with subdivisions.**

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

**Sec. 10B-69. Time for decision when Planning Board reviews application for subdivision, site plan or conditional use approval that includes request for variance pursuant to N.J.S.A. 40:55D-70c or special permit.**

Whenever an application to the Planning Board for approval of a subdivision plat, site plan or conditional use includes a request for a variance or special permit, the Planning Board shall grant or deny approval of the application within one hundred twenty days after the date of submission of a complete application to the administrative officer.

**Sec. 10B-70. Time for decision when Planning Board reviews application for conditional use that includes request for site plan approval.**

Whenever the Planning Board reviews an application for conditional use that includes a request for site plan approval, the Planning Board shall grant or deny approval of the application within ninety-five days after the date of submission of a complete application to the administrative officer.

**Sec. 10B-71. Time for decision when Zoning Board of Adjustment reviews subdivision, site plan or conditional use in conjunction with use variance.**

Whenever an application is made to the Zoning Board of Adjustment for subdivision or site plan approval in conjunction with the Board's review of a variance pursuant to N.J.S.A. 40:55D-70d, the Zoning Board of Adjustment shall grant or deny approval of the application within one hundred and twenty days after the date of submission of a complete application to the administrative officer.

In the event that the developer elects to submit separate consecutive applications pursuant to Section 10B-13(b), the aforesaid 120 day limitation shall apply to the application for approval of the variance pursuant to N.J.S.A. 40:55D-70d and the period for granting of the subsequent approval shall be as otherwise provided in this chapter.

**Sec. 10B-72. Extension of time for decision.**

Any time period specified for action by a municipal agency may be extended with the consent of the applicant or appellant.

**Sec. 10B-73. Failure to make decision within time.**

The failure of any municipal agency to act within such time period or extension thereof shall constitute a decision favorable to the applicant or appellant. A certificate of the administrative officer as to such failure shall be issued on request of the applicant or appellant, and it shall be sufficient in lieu of written endorsement or other evidence of approval required by this chapter and shall be accepted as such by the county clerk for any purposes with respect to filing subdivision plats.

Division 8. Appeals to Governing Body on Applications for Development.

**Sec. 10B-74. Appeals permitted from decision of Zoning Board of Adjustment on applications approving variances pursuant to N.J.S.A. 40:55D-70d.**

Any interested party may appeal to the Princeton Council any final decision of the Zoning Board of Adjustment approving an application pursuant to N.J.S.A. 40:55D-70d.

**Sec. 10B-75. Time and manner of appeal; fees.**

Such appeal shall be made within ten days of the date of publication of such final decision pursuant to Section 10B-62. The appeal to the Princeton Council shall be made by serving the municipal clerk in person or by certified mail with a notice of appeal specifying the grounds thereof and the name and address of the appellant and of the appellant's attorney, if represented. Such appeal shall be decided by the Princeton Council only upon the record established before the Zoning Board of Adjustment. The appellant shall pay to the municipal clerk the sum of one hundred dollars as a fee for the appeal.

**Sec. 10B-76. Proceedings stayed by appeal; exceptions.**

An appeal to the Princeton Council shall stay all proceedings in furtherance of the action with respect to which the decision appealed from was made unless the Zoning Board of Adjustment certifies to the Princeton Council, after the notice of appeal has been filed with said Zoning Board of Adjustment, that by reason of facts stated in the certification that a stay would in said Board's opinion cause imminent peril to life or property, and in such case proceedings shall not

be stayed other than by order of the Superior Court upon notice to said Zoning Board of Adjustment and on good cause shown.

**Sec. 10B-77. Time for arranging for a transcript; copies of transcript; failure to comply.**

The appellant shall:

(a) Within five days of service of the notice of appeal, arrange for a transcript of the proceedings pursuant to Section 10B-45 for use by the Princeton Council and pay a deposit of fifty dollars or the estimated cost of such transcript, whichever is less; or

(b) Within thirty-five days of service of the notice of appeal, submit a transcript as otherwise arranged to the municipal clerk. If the Zoning Board of Adjustment did not have a stenographic transcript made of the proceeding, then the appellant shall arrange to obtain a duplicate copy of the tape recording of the proceeding below and have a transcript prepared from said duplicate tape and filed with the municipal clerk pursuant to this subsection.

(c) Should the appellant fail to arrange for the transcript as provided for in subsection (a) hereinabove or file same with the municipal clerk as provided for in subsection (b) hereinabove, the Princeton Council may dismiss the appeal for failure to prosecute.

**Sec. 10B-78. Notice of hearing.**

Notice of the meeting to review the record below shall be given by the Princeton Council by personal service or certified mail to the appellant, to those entitled to notice of a decision pursuant to Section 10B-61 and to the Zoning Board of Adjustment at least ten days prior to the date of the meeting.

**Sec. 10B-79. Appeal to be decided on record; argument permitted; recording of meeting.**

The Princeton Council shall conclude a review of the record below not later than ninety-five days from the date of publication of notice of the decision below pursuant to Section 10B-62 unless the applicant consents in writing to an extension of such period. Failure of the Princeton Council to hold a hearing and conclude a review of the record below and to render a decision within such specified period shall constitute a decision affirming the action of the Zoning Board of Adjustment. The parties may submit oral and written argument on the record at such meeting,

and the Princeton Council shall provide for a verbatim recording and transcript of such meeting in the manner provided for in Section 10B-45.

**Sec. 10B-80. Power to affirm, reverse, remand or modify; vote required to reverse, remand or modify.**

The Princeton Council may reverse, remand or affirm with or without the imposition of conditions the final decision of the Zoning Board of Adjustment approving a variance pursuant to N.J.S.A. 40:55D-70d. The review shall be made on the record made before the Zoning Board of Adjustment. The affirmative vote of a majority of the full authorized membership of the Princeton Council shall be necessary to reverse or remand to the Zoning Board of Adjustment or to impose conditions on or alter conditions to any final action of said Board. Otherwise, the final action of the Zoning Board of Adjustment shall be deemed to be affirmed. A tie vote of the Princeton Council shall constitute affirmance of the decision of the Zoning Board of Adjustment.

**Sec. 10B-81. Furnishing copies of decision.**

Not later than 10 days after the date of decision, the Princeton Council shall mail a copy of the decision to the appellant or, if represented, then to the appellant's attorney, without separate charge and with a reasonable charge to any interested party who has requested it. A brief notice of the decision shall be published in the official newspaper of the municipality. Such publication shall be arranged by the municipal clerk, provided that nothing contained herein shall be construed as preventing the appellants from arranging such publication if they so desire. The Princeton Council may make a reasonable charge for its publication. The period of time in which an appeal to a court of competent jurisdiction may be made shall run from the date of first publication, whether arranged by the municipality or the appellant.

Nothing in this division shall be construed to restrict the right of any party to obtain a review of any court of competent jurisdiction according to law.

Division 9. Appeals and Petitions to Board of Public Utilities.

**Sec. 10B-82. Appeal to Board optional; time for such.**

If a public utility, as defined in N.J.S.A. 40A:2-13, is aggrieved by the action of a municipal agency through such agency's exercise of its powers under this chapter with respect to any action in which the public utility has an interest, an appeal to the Board of Public Utilities may be taken within thirty-five days after such action without appeal to the Princeton Council unless such public utility so chooses. If the public utility chooses to appeal to the Princeton Council, further appeal to the Board of Public Utilities may be taken by the utility within thirty-five days after action by the Princeton Council.

**Sec. 10B-83. Notice and hearing by Board.**

A hearing on the appeal of a public utility to the Board of Public Utilities shall be had on notice to the agency from which the appeal is taken and to all parties primarily concerned, all of whom shall be afforded an opportunity to be heard.

**Sec. 10B-84. Decision may supersede land use regulations.**

If, after such hearing, the Board of Public Utilities finds that the present or proposed use by the public utility of the land described in the petition is necessary for the service, convenience or welfare of the public, the public utility may proceed in accordance with such decision of the Board of Public Utilities, notwithstanding any provision of this chapter or any regulation made under the authority of this chapter.

**Sec. 10B-85. Board may on direct petition supersede land use regulations as to utility installations in more than one municipality.**

Neither this chapter nor any regulation made under authority thereof shall apply to a development proposed by a public utility for installation in more than one municipality for the furnishing of service, if, upon a petition of the public utility, the Board of Public Utilities shall after the hearing, of which any municipalities affected shall have notice, decides that the proposed installation of the development in question is reasonably necessary for the service, convenience or welfare of the public.

**Sec. 10B-86. Right to judicial review preserved.**

Nothing in this division shall be construed to restrict the right of any interested party to obtain a review of the action of the municipal agency or of the Board of Public Utilities by any court of competent jurisdiction according to law.

Division 10. Tolling of Running of Period of Approval of Applications for Development.

**Sec. 10B-87. Running of approval period tolled by certain disabilities.**

In the event that during the period of effectiveness provided for the approval of any application for development the developer is barred or prevented, directly or indirectly, from proceeding with the development otherwise permitted under such approval by a legal action instituted by any state agency, political subdivision or 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 or welfare, and the developer is otherwise ready, willing and able to proceed with such development, the running of the period of effectiveness of approval under this chapter shall be suspended for the period of time such legal action is pending or such directive or order is in effect.

Division 11. Development Regulations.

**Sec. 10B-88. Referral of development regulations to Planning Board.**

Before adopting, amending or revising any development regulation, the Princeton Council shall refer such to the Planning Board for report and recommendation with respect to identification of any provisions in the proposed development regulation, revision or amendment that are inconsistent with the Master Plan and recommendations concerning those inconsistencies and any other matters as the Planning Board deems appropriate, and shall review the Planning Board's report and recommendation when considering the adoption thereof. The Princeton Council may disapprove or change any such recommendation only by a majority vote of its full authorized membership, and in such event it shall record in its minutes the reasons for not following the same. Failure of the Planning Board to transmit such report within thirty-five days after the Princeton Council has made such referral shall relieve the Princeton Council of the other requirements of this section.

**Sec. 10B-89. Hearing on development regulations.**

The Princeton Council shall hold a hearing before adopting, amending or revising any development regulation.

**Sec. 10B-90. Notice of hearing.**

Notice of such hearing shall be given by the Princeton Council by personal service or certified mail at least ten days prior to the date of the hearing to the county planning board and, in cases involving property situated within two hundred feet of an adjoining municipality, to the clerk of such municipality. In addition, notice of hearing on amendment to the zoning ordinance proposing a change to the classification or boundaries of a zoning district, exclusive of classification or boundary changes recommended in a periodic general re-examination of the Master Plan by the Planning Board pursuant to N.J.S.A. 40:55D-89, shall be given at least ten days prior to the hearing by the municipal clerk to the owners of all real property as shown in the current tax duplicates located, in the case of classification change, within the district and within the State within 200 feet in all directions of the boundaries of the district and located, in the case of a boundary change, in the State within 200 feet in all directions of the proposed new boundaries of the district that is the subject of the hearing.

**Sec. 10B-91. Contents of notice.**

Such notice shall state the date, time and place of the hearing and the nature of the matters to be considered and shall include a copy of the proposed development regulation or amendment or revision thereof.

**Sec. 10B-92. Contents of and manner of notice when a zoning district classification or boundary is proposed to be changed.**

(a) In addition to the contents of the notice as required by Section 10B-90, notice for a development regulation or amendment that proposes a change to the classification or boundaries of a zoning district or districts shall include an identification of the affected zoning districts and proposed boundary changes, if any, by street names, common names or other identifiable landmarks and by reference to lot and block numbers as shown in the current tax

duplicate of the municipal tax assessor's office. Such notice shall be given by serving a copy thereof on the property owner as shown on the current tax duplicate or agent in charge of the property or mailing a copy thereof by certified mail and regular mail to the property owner at the address as shown on the current tax duplicate.

(b) Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice-president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation. Notice to a condominium association, horizontal property regime, community trust or homeowners' association, because of its ownership of common elements or areas located within 200 feet of the boundary of the district that is the subject of the hearing, may be made in the same manner as to a corporation, in addition to notice to unit owners, co-owners or home owners on account of such common elements or areas.

(c) The municipal clerk shall execute affidavits of proof of service of the notices required by this section and shall keep the affidavits on file along with the proof of publication of the notice of the required public hearing on the proposed zoning ordinance change. Cost of the notice provision shall be the responsibility of the proponent of the amendment.

**Sec. 10B-93. Notice of adoption of capital improvement program.**

Notice of the adoption of any capital improvement program or amendment or revision thereof shall be given by the Princeton Council to the county planning board by personal service or certified mail within thirty days after the date of such adoption, and such notice shall include a copy of such adopted, capital improvement program, amendment or revision.

**Sec. 10B-94. Development regulations not effective until filed with county authorities.**

No zoning, subdivision or site plan ordinance or any amendment or revision thereof shall take effect until a copy thereof is filed with the county planning board.

**Sec. 10B-95. Filing of development regulations with municipal clerk.**

Copies of all development regulations and any amendments or revisions thereof shall be filed and maintained in the office of the municipal clerk.

**Sec. 10B-96. General laws as to passage of ordinances unaffected.**

The requirements of this division as to development regulations shall be in addition to those imposed by law generally for the passage of ordinances.

Division 12. Reexamination of Master Plan and Development Regulations.

**Sec. 10B-97. Reexamination and report to be made periodically by Planning Board.**

The Princeton Council shall, at least every ten years, provide for a general reexamination of the Master Plan and development regulations by the Planning Board, which shall prepare and adopt by resolution a report on the findings of such reexamination. The Board shall send a copy of the report and resolution to the Princeton Council and the county planning board and a notice that the required resolution have been prepared to the clerk of each adjoining municipality. The ten year period shall commence with the submission of the preceding Planning Board report.

**Sec. 10B-98. Contents of report.**

The report of the Planning Board shall state:

- (a) The major problems and objectives, if any, relating to land development in the municipality and region at the time of the preceding report.
- (b) The extent to which such problems and objectives have been reduced or have increased subsequent to such date.
- (c) The extent to which there have been significant changes in the assumptions, policies and objectives forming the basis for the Master Plan or development regulations as last revised, with particular regard to the density and distribution of population and land uses, housing conditions, circulation, conservation of natural resources, energy conservation, and changes in state, county and municipal policies and objectives.
- (d) The specific changes, if any, recommended for such plan or regulations, including underlying objectives, policies and standards, or the decision as to whether a new plan or regulations should be prepared.

Division 13. Enforcement.

**Sec. 10B-99. Municipal engineer as enforcement officer.**

The municipal engineer shall have such powers and duties as are prescribed in this division and elsewhere in this chapter and shall have the power to adopt such forms, rules and regulations, not inconsistent with this chapter, as deemed by the municipal engineer to be desirable or necessary to carry out his or her duties.

**Sec. 10B-100. Approval by municipal engineer required for undertaking development.**

Approval by the municipal engineer on such form as he or she shall prepare shall be obtained prior to the undertaking of any development for which permission is required under this chapter, and such undertaking shall be in accordance with such approval and may continue only so long as the approval is valid and subsisting.

**Sec. 10B-101. Enforcement of development approvals.**

The municipal engineer shall enforce the required implementation of subdivisions, site plans and zoning variances approved under laws or ordinances in effect prior to the adoption of this chapter and superseded hereby, and for such purpose the municipal engineer shall have all of the powers and duties prescribed in this division.

**Sec. 10B-102. Selling land before subdivision approval; penalty; actions.**

(a) If, before final subdivision approval has been granted, any person transfers or sells or agrees to transfer or sell as owner or agent, except pursuant to an agreement expressly conditioned on final subdivision approval, any land that forms a part of a subdivision for which approval is required by this chapter, such person shall be subject to a penalty not to exceed one thousand dollars, and each lot disposition so made may be deemed a separate violation.

(b) In addition to the foregoing, the municipality may institute and maintain a civil action for injunctive relief and to set aside and invalidate any conveyance made pursuant to such a contract of sale if a certificate of compliance has not been issued in accordance with Section 10B-102. Any such action must be brought within two years after the date of the recording of the instrument of transfer, sale or conveyance of such land or within six years if unrecorded. 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

its 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.

**Sec. 10B-103. Certificate as to approval of subdivision.**

(a) The prospective purchaser, prospective mortgagee or any other person interested in any land that forms part of a subdivision may apply in writing to the municipal clerk for the issuance of a certificate certifying whether such subdivision has been approved by the Planning Board or Zoning Board of Adjustment. Such application shall contain a diagram showing the location and dimensions of the land to be covered by the certificate and the name of the owner thereof.

(b) The municipal clerk shall make and issue such certificate within fifteen days after the receipt of such written application and the fees therefor. Such officer shall keep a duplicate copy of each certificate, consecutively numbered, including a statement of the fee charged, in a binder as a permanent record of his or her office.

(c) Each such certificate shall be designated a "certificate as to approval of subdivision of land," and shall certify:

(1) Whether there exists in the municipality a duly established Planning Board and Zoning Board of Adjustment and whether there is an ordinance controlling subdivision of land adopted under the authority of the Municipal Land Use Law;

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

(3) Whether such subdivision, if the same has not been approved, is statutorily exempt from the requirement of approval as provided in the Municipal Land Use Law.

(d) The municipal clerk shall be entitled to demand and receive for such certificate issued by him or her a reasonable fee not in excess of those provided in Section 54:5-14 and 54:5-15 of the Revised Statutes of New Jersey. The fees so collected by such officer shall be paid by him or her to the municipality.

**Sec. 10B-104. Rights of owner of land covered by certificate or on failure to issue certificate.**

(a) 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 the provisions of Section 10B-101.

(b) If the municipal clerk fails to issue any such certificate within fifteen days after receipt of an application and the fees therefor, any person acquiring an interest in the lands described in such application shall hold such interest free of any right, remedy or action which could be prosecuted or maintained by the municipality pursuant to Section 10B-101.

**Sec. 10B-105. Injunctive relief.**

In case any development is undertaken, occupied or used in violation of this chapter or any rule, regulation or order made under the authority of this chapter, or in case such violation is threatened, the municipal engineer, in his or her own official behalf or on behalf of the municipality or any municipal agency or any interested party, in addition to other remedies, may institute any appropriate action or proceedings to prevent such violation, or to restrain, correct or abate such violation or to prevent any illegal act, conduct, business, occupancy or use in or about the premises that are the subject of the development; provided, that no such action or proceeding shall be instituted by the municipal engineer in any court other than the municipal court, except in case of emergency, unless the Princeton Council shall first have authorized such.

**Sec. 10B-106. Right of entry.**

The municipal engineer shall have the right to enter any premises at any reasonable time for the purpose of making inspections in the course of his or her duties or, as permitted by law, to investigate violations of this chapter, provided that the owner has, by virtue of signing the application form for development approval or in such other form as he or she provides or on which a municipality requires signature, has consented to such entry. The application form for development approval shall contain a provision providing for such owner consent.

**Sec. 10B-107. Penalties.**

(a) Except as otherwise provided in Section 10B-101, any person who violates any provision of this chapter or any rule, regulation or order made under the authority of this chapter, shall be subject to all penalties set forth in this Code. In cases of continuing violations, each day that such violation continues shall be deemed a separate offense. Any complaint to impose such penalty may be filed in municipal court on behalf of the state by the municipal engineer, any municipal police officer or any interested party.

(b) Any person who is convicted of violating this chapter or any other rule, regulation, or order promulgated pursuant to this Code within one year of the date of a previous violation of the same provision shall be deemed and treated as a repeat offender. The additional fine imposed by the court upon a person for a repeated offense shall be calculated separately from the fine imposed by the violation of the provision.

(c) Any person convicted of violating this chapter or any other land use ordinance of the municipality or any other rule, regulation, or order promulgated pursuant to this code or other municipal ordinance and who is in default of the payment of any fine imposed for the violation may, at the court's discretion, be imprisoned for a term not exceeding ninety days or be required to perform community service for a period not exceeding ninety days.

**Sec. 10B-108. Records.**

The administrative officer shall maintain in his or her office a record of all development permits and all actions, proceedings or complaints taken, instituted or filed by him or her.

Division 14. Fire Protection Plan.

**Sec. 10B-109. Fire protection plans.**

Sections 10B-118.1 through -118.4 of the Township Code and Sections 17A-118.1 through -118.8 of the Borough Code shall apply.

**ARTICLE V. Master Plan.**

**Sec. 10B-110. Preparation, adoption and modification.**

The Planning Board shall prepare and adopt, and may from time to time amend or revise, a master plan, or component parts thereof to guide the use of lands within the municipality in a manner that protects public health and safety and promotes the general welfare.

**Sec. 10B-111. Form and elements.**

The master plan shall generally comprise a report or statement and land use and development proposals with maps, diagrams and text, presenting at least the following elements (a) and (b) and, where appropriate, the following elements (c) through (p) and such other elements as may be permitted or required from time to time by N.J.S.A. 40:55D-1 et seq.:

(a) A statement of objectives, principles, assumptions, policies and standards upon which the constituent proposals for the physical, economic and social development of the region are based;

(b) A land use plan element taking into account and stating its relationship to the statement provided for in paragraph (a) hereof and the other master plan elements provided for in paragraph (c) through (p) hereof and natural conditions including, but not necessarily limited to, topography, soil conditions, water supply, drainage, flood plain areas, marshes and woodlands; showing the existing and proposed location, extent and intensity of development of land to be used in the future for varying types of residential, commercial, industrial, agricultural, recreational, educational and other public and private purposes or combination of purposes; stating the relationship thereof to the existing and any proposed master plan and zoning ordinance; showing the existing and proposed location of any airports and the boundaries of any airport safety zones delineated pursuant to the "Air Safety and Zoning Act of 1983," P.L. 1983, c.260 (C.6:1-80 et al.); and including a statement of the standards of population density and development intensity recommended for the municipality;

(c) A housing plan element pursuant to section 10 of P.L. 1985, c.222 (N.J.S.A.52:27D-310), including but not limited to, residential standards and proposals for the construction and improvement of housing;

(d) A circulation plan element showing the location and types of facilities for all modes of transportation required for the efficient movement of people and goods into, about and through the municipality, taking into account the functional highway classification system of the

Federal Highway Administration and the types, locations, conditions and availability of existing and proposed transportation facilities, including air, water, road and rail;

(e) A utility service plan element analyzing the need for and showing the future general location of water supply and distribution facilities, drainage and flood control facilities, sewerage and waste treatment, solid waste disposal and provision for other related utilities, and including any storm water management plan required pursuant to the provisions of P.L. 1981, c.32 (N.J.S.A. 40:55D-93 et al.). If the municipality prepares a utility service plan element as a condition for adopting a development transfer ordinance pursuant to subsection c. of section 4 of P.L.2004, c.2 (N.J.S.A. 40:55D-140), the plan element shall address the provisions of utilities in the receiving zone as provided thereunder;

(f) A community facilities plan element showing the location and type of educational or cultural facilities, historic sites, libraries, hospitals, fire houses, police stations and other related facilities, including their relation to the surrounding areas;

(g) A recreation plan element showing a comprehensive system of areas and public sites for recreation;

(h) A conservation plan element providing for the preservation, conservation, and utilization of natural resources, including, to the extent appropriate, energy, open space, water supply, forests, soil, marshes, wetlands, harbors, rivers and other waters, fisheries, endangered or threatened species wildlife and other natural resources. It shall systematically analyze the impact of each other component and element of the master plan on the present and future preservation, conservation and utilization of those resources;

(i) An economic plan element considering all aspects of economic development and sustained economic vitality, including a comparison of the types of employment expected to be provided by the economic development to be promoted with the characteristics of the labor pool resident in the municipality and nearby areas and an analysis of the stability and diversity of the economic development to be promoted;

(j) An historic preservation plan element indicating the location and significance of historic sites and historic districts; identifying the standards used to assess worthiness for historic site or district identification; and analyzing the impact of each component and element of the master plan on the preservation of historic sites and districts;

(k) Appendices or separate reports containing the technical foundation for the master plan and its constituent elements.

(l) A recycling plan element that incorporates the State Recycling Plan goals, including provisions for the collection, disposition and recycling of recyclable materials designated in the municipal recycling ordinance and for the collection, disposition and recycling of recyclable materials within any development proposal for the construction of 50 or more units of single-family residential or 25 or more units of multi-family residential housing and any commercial or industrial development proposal for the utilization of 1,000 square feet or more of land;

(m) A farmland preservation plan element, which shall include: an inventory of farm properties and a map illustrating significant areas of agricultural land; a statement showing that municipal ordinances support and promote agriculture as a business; and a plan for preserving as much farmland as possible in the short term by leveraging moneys made available by P.L.1999, c.152 (N.J.S.A. 13:8C-1 et al.) through a variety of mechanisms including, but not limited to, utilizing option agreements and installment purchases and encouraging donations of permanent development easements;

(n) A development transfer plan element which sets forth the public purposes, the locations of sending and receiving zones and the technical details of a development transfer program based on the provisions of section 5 of P.L.2004, c.2 (N.J.S.A. 40:55D-141);

(o) An educational facilities plan element which incorporates the purposes and goals of the long-range facilities plan required to be submitted to the Commissioner of Education by a school district pursuant to section 4 of P.L.2000, c.72 (N.J.S.A.18A:7G-4); and

(p) A green buildings and environmental sustainability plan element, which shall provide for encourage, and promote the efficient use of natural resources and the installation and usage of renewable energy systems; consider the impact of buildings on the local regional and global environment; allow ecosystems to function naturally; conserve and reuse water; treat storm water on site; and optimize climatic conditions through site orientation and design.

**Sec. 10B-112. Staging.**

The master plan and its plan elements may be divided into subplans and subplan elements projected according to periods of time or staging sequences.

**Sec. 10B-113. Relationship to other plans.**

The master plan shall include a specific policy statement indicating the relationship of the proposed development of the region, as developed in the master plan, to (1) the master plans of contiguous municipalities, (2) the master plan of the County of Mercer, (3) the State Development and Redevelopment Plan adopted pursuant to the State Planning Act, sections 1 through 12 of P.L.1985, c.398 (N.J.S.A. 52:18A-196 et seq.) and (4) the district solid waste management plan of the County of Mercer required pursuant to the provisions of the “Solid Waste Management Act,” P.L. 1970, c.39 (N.J.S.A. 13:1E-1 et seq.).

**ARTICLE VI. CAPITAL PROJECT REVIEW.**

**Sec. 10B-114. Review of capital projects.**

(a) Whenever the Planning Board has adopted any portion of the Master Plan, the Princeton Council or any other public agency having jurisdiction over the subject matter, before taking action necessitating the expenditure of any public funds incidental to the location, character or extent of a capital project, shall refer the action involving such specific project to the Planning Board for review and recommendation in conjunction with the Master Plan and shall not act thereon without such recommendation or until forty-five days have elapsed after such reference without receiving such recommendation. This requirement shall apply to action by a housing, parking, highway, special district or other authority, redevelopment agency, school board or other similar public agency, state, county or municipal. In addition, this requirement shall apply to any public entity taking any action to permit the location, erection, use or maintenance of an outdoor advertising sign required to be permitted pursuant to P.L.1991, C.413 (N.J.S.A. 27:5-5 et seq.).

(b) The Planning Board shall review and issue findings concerning any long-range facilities plan submitted to the board pursuant to the Educational Facilities Construction and Financing Act, P.L.2000, C.72 (N.J.S.A. 18A:7G-1 et al.), for the purpose of review of the extent to which the long-range facilities plan is informed by, and consistent with, at least the land use plan element and the housing element contained within the Master Plan and such other elements of the Master Plan as the Planning Board deems necessary to determine whether prospective sites

for school facilities contained in the long-range facilities plan promote more effective and efficient coordination of school construction with the development efforts of the municipality. The Planning Board shall devote at least one full meeting of the board to presentation and review of the long-range facilities plan prior to adoption of a resolution setting forth the board's findings.

## **ARTICLE VII. SPECIAL PERMITS.**

### **Sec. 10B-115. Direction for issuance of permits for buildings or structures in reserved areas.**

No permit shall be issued for any building or structure in the bed of any street or public drainage way, flood control basin or public area reserved pursuant to N.J.S.A. 40:55D-44 as shown on the Master Plan or shown on a plat filed pursuant to this chapter except as herein provided.

Whenever one or more parcels of land upon which is located the bed of such a mapped street or public drainage way, flood control basin or public area so reserved cannot yield a reasonable return to the owner unless such a permit is granted, the Zoning Board of Adjustment may, in a specific case, upon application or appeal filed with the municipal engineer, by an affirmative vote of a majority of its full authorized membership direct the issuance of such permit, which shall as little as practicable increase the cost of opening such street and tend to cause a minimum change of the Master Plan, and the Board shall, as a condition of granting the permit, impose reasonable requirements so as to promote the health, morals, safety and general welfare of the public.

### **Sec. 10B-116. Building lots to abut a street.**

No permit for the erection of any building or structure shall be issued unless the lot abuts a street giving access to such proposed building or structure. Such street shall be an existing state, county or municipal street or highway or a street shown upon a plat approved by the Planning Board or Zoning Board of Adjustment or a street on a plat duly filed in the office of the county clerk prior to the passage of this chapter or under any prior law or ordinance that required prior approval of plats by the governing body or other authorized body. Before any such permit shall be issued, (a)

such street shall have been certified to be suitably improved to the satisfaction of the Princeton Council, or such suitable improvement shall have been ensured by means of a performance guarantee, in accordance with standards and specifications for road improvements approved by the Princeton Council as adequate in respect to the public health, safety and general welfare under the special circumstance of the particular street, and (b) it shall have been established that the proposed access conforms with the standards of the State Highway Access Management Code adopted by the Commissioner of Transportation under section 3 of the "State Highway Access Management Act", P.L. 1989, c.32 in the case of a state highway, with the standards of any access management code adopted by the county under N.J.S.A. 27:16-1 in the case of a county road or highway, and with the standards of any municipal access management code adopted under N.J.S.A. 40:67-1 in the case of a municipal street or highway.

**Sec. 10B-117. Appeals.**

Where the enforcement of Section 10B-115 would entail practical difficulty or unnecessary hardship or where the circumstances of the case do not require the building or structure to be related to a street, the Zoning Board of Adjustment may upon application or appeal filed with the municipal engineer vary the application of Section 10B-115 and direct the issuance of a permit, subject to conditions that will provide adequate access for firefighting equipment, ambulances and other emergency vehicles necessary for the protection of health and safety and that will protect any future street layout shown on the Circulation Plan Element of the Master Plan.

The Zoning Board of Adjustment shall not exercise the power otherwise granted by this section if the proposed development requires approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board has power to direct the issuance of a permit pursuant to subsection c of section 47 P.L. 1975, c.291 (C.40:55D-60).

**Sec. 10B-118 to -126. Reserved.**

4. This Ordinance shall take effect upon its passage and publication and filing with the Mercer County Planning Board as provided for by law.

I, Kathleen K. Brzezynski, Deputy Clerk of Princeton, County of Mercer, State of New Jersey, do hereby certify that the foregoing is a true copy of an ordinance adopted by the Mayor and Council of Princeton at its meeting held June 22, 2015.



Kathleen K. Brzezynski  
Deputy Clerk

#### STATEMENT OF PURPOSE AND SUMMARY OF ORDINANCE

The purpose of Ordinance 2015-20 is to merge all of Articles I (General Provisions), II (Planning Board), III (Board of Adjustment), V (Master Plan), and VI (Capital Project Review) in the Borough and Township Land Use Codes and Articles VII of the Borough Land Use Code (Official Map and Special Permits) and of the Township Land Use Code (Special Permits), as well as Divisions 1 through 13 of Articles IV (Administration and Procedure in General) of the Borough and Township Land Use Codes,. The only provisions not being merged and replaced at this time are the provisions set forth in Articles IV, Division 14 of the Borough and Township Codes concerning fire protection plans, which will remain in effect until a future date.

Much of the language in both Land Use Codes is the same and has been retained. Some sections have been reorganized, and the text has been modified for purposes of clarity and avoiding redundancy; to make the language gender neutral, and by adding Municipal Land Use Law language. The primary substantive changes are: (1) the legislative purpose in both Land Use Codes “[t]o encourage senior citizen community housing construction” has been replaced with the purpose “[t]o encourage the development of housing sizes and types that will serve residents of various ages, incomes, and physical capabilities;” (2) provisions authorizing adoption of an official map that were in the Borough Land Use Code have been eliminated; (3) the Notice section (Section 10B-46) is much more detailed and includes the requirement of notice for all applications for which the Municipal Land Use Law authorizes notice. Section 10B-46(b)(1) now requires notice for minor subdivision applications that will be heard by the Subdivision Committee; and (4) the sections on enforcement (Article IV, Division 13) has been substantially modified. The municipal engineer or designee is now designated as the

Development Enforcement Officer, and the sections providing for various permits relating to enforcement, including development permits, development certificates of occupancy, and conditional and temporary development certificates of occupancy, have been replaced by the more straightforward approach of requiring approval by the municipal engineer or designee prior to a development proceeding (new Section 10B-100).

All minutes of Planning Board and Zoning Board of Adjustment meetings must now be posted on the municipal website (Section 10B-30). All of the definitions that were in the Historic Preservation Ordinance adopted in 2014 have been merged with the definitions in Articles I-VII.