

CHAPTER 4 – APPLICATION REVIEW PROCEDURES AND REQUIREMENTS

SECTION 4.1 – FILING AND COMPLETENESS REVIEW; INFORMAL REVIEWS

- A. Filing, Referral, Distribution and Scheduling. Applicants may file applications for action under any of the Planning Board’s powers without prior application to the Zoning Officer. All applications are filed with the Planning Board Secretary who will review them pursuant to Section 3.4.C.2, and schedule completeness review to occur within 45 days after filing pursuant to *N.J.S.A. 40:55D-10.3*. All applications except for appeals of zoning officer decisions must include a completed Application Cover Sheet, Checklist Schedule A (General Requirements), and Checklist Schedule B (Approvals Requested). All applications must be filed with the correct fees and initial escrow deposits as set forth in Section 3.5.
- B. Completeness Review Requirements. All applications to the Planning Board, including but not limited to applications for informal review and site plan waiver, will be reviewed for completeness prior to being scheduled for hearing. An application filed pursuant to this Ordinance shall be complete for hearing and for purposes of commencing the applicable time period for action by a municipal agency when so certified by the Planning Board or its authorized committee or designee. Public notice pursuant to *N.J.S.A. 40:55D-11* and *-12* is not required for completeness reviews, provided that such review must only involve determinations as to completeness and the basis for and appropriateness of requested submission waivers. No other discussion of the application may occur without adequate public notice pursuant to *N.J.S.A. 40:55D-11* and *12*. Applicants may, but are not required to attend completeness review determinations. Attorney representation is required for corporate, limited liability company, and partnership applicants at completeness reviews for all applications other than informal reviews, except that attorney representation is not required for corporations or limited liability companies that are represented before the Board by the single person who holds all offices in and owns all stock or other interest in the corporation or limited liability company. In the event that the Planning Board, or its committee or designee does not certify the application to be complete or incomplete within 45 days of the date of its submission, the application shall be deemed complete upon the expiration of the 45-day period unless:
1. the application lacks information indicated on the required application checklists; and
 2. the Planning Board or its authorized committee or designee has notified the applicant, in writing, of the deficiencies in the application within 45 days of submission of the application.
- C. Submission Waivers. The applicant may request that one or more of the submission requirements be waived by listing the waiver request as required by Checklist Schedule A, Item 9 with an explanation of why the waiver should be granted, in which event the Board or its authorized committee shall grant or deny the submission waiver request as part of the completeness review, provided that any information so waived may later be required if needed by the Board to make an informed decision on the application.
- D. Applicant’s Burden of Proof; Right to Require Corrected or Additional Information; Taxes. The completeness review process does not diminish the applicant's obligation to prove in the application process that the applicant is entitled to approval of the application. The Board may subsequently require correction of any information found to be in error. The Board may also require submission of additional information not specified in the ordinance or checklists, or revisions in the application materials, as may be reasonably necessary to make an informed decision on the application, but an application shall not be certified incomplete for lack of any such additional information or revisions so required. Applicants have an ongoing obligation to confirm that real estate taxes are current for

the properties that are the subject of Planning Board applications. The Planning Board may refuse to certify applications complete or conduct any hearings, and may also dismiss applications with or without prejudice, if all taxes are not paid in full, regardless of whether taxes were current at the time the application was filed, certified complete, or considered at prior hearings.

- E. Informal Reviews. An applicant may apply for informal review of a concept plan for a development for which the applicant intends to prepare and submit an application for development. To request informal review, the applicant must file an application with the Planning Board Secretary which includes the completed Application Cover Sheet, and the requirements of Checklist Schedule A (General Requirements), Checklist Schedule B (Approvals Requested), and Schedule D (Informal Review). After the application has been certified or deemed complete pursuant to Subpart B, above, the applicant will be notified by the Planning Board Secretary of the meeting date at which the informal review will be considered. The fee for the informal review application will be credited toward the application fee for filing a subsequent application, provided that the subsequent application is made by the same applicant, and for the same property, within one year after the date following the meeting at which the informal review was conducted by the Board. Any review escrow amounts remaining on deposit as of the date of the subsequent application, minus amounts that are estimated to be owed for reimbursement of costs and fees that have not yet been billed or paid as of the date the subsequent application is filed, will be credited or applied to the escrow requirements for the subsequent application. The applicant shall not be bound by any concept plan for which review is requested, nor shall the planning board be bound by any such review. Variances cannot be discussed informally. Public notice pursuant to *N.J.S.A. 40:55D-11* and *12* is not required for informal reviews. Attorney representation is not required for corporate, limited liability company or partnership applicants at informal reviews, provided that at least one officer, member or partner represents the informal applicant at the informal review. Informal reviews may only be conducted prior to the filing of the intended application for development. No informal review may be conducted for developments or projects that are the subject of applications which have already been filed with the Planning Board.

SECTION 4.2 – SCHEDULING HEARINGS

- A. After an application has been certified complete or deemed complete the Planning Board Secretary must schedule the application for hearing, notify the applicant of the hearing date, and authorize the applicant to issue public notice as may be required pursuant to *N.J.S.A. 40:55D-11* and *-12*.

SECTION 4.3 – DOCUMENTS ON FILE; ATTORNEY REPRESENTATION; REVIEW ESCROWS

- A. Maps, documents and exhibits on file. A complete set of maps, documents and exhibits shall be on file with the Planning Board Secretary at least 10 days prior to any hearing.
- B. Attorney representation. Attorney representation is required for all corporate, limited liability company or partnership applicants except at informal reviews, provided that at least one officer, member or partner must represent the applicant at the informal review.
- C. Review escrow requirements. The applicant must replenish the review escrow as required by *N.J.S.A. 40:55D-53.2*. The Board may vote to require the review escrow to be supplemented in advance if it appears, based on the recommendations of the Board’s professionals or consultants, that the application will require extensive or specialized review. If an applicant’s review escrow is deficient, or if replenishment or supplementation has been requested and not made, the Board may elect not to

conduct the application hearing until replenishment or supplementation is made. If, in such event, the applicant does not waive the Board's deadline for decision on the application, the Board may dismiss the application with or without prejudice.

SECTION 4.4 –NOTICE REQUIREMENTS

- A. After an application has been certified or deemed complete the Secretary must schedule the application for hearing, notify the applicant of the hearing date, and authorize the applicant to issue public notice as may be required pursuant to *N.J.S.A. 40:55D-11* and *-12*.
- B. Notice required for certain applications. Except for minor subdivision and site plan waiver applications that involve no other application requiring public notice, and except when waived in connection with a minor site plan application that involves no other application requiring public notice, public notice is required for all “applications for development” as defined in this Ordinance and as specified in *N.J.S.A. 40:55D-12*, including but not limited to:
 - 1. Applications for extension of approvals for five or more years under *N.J.S.A. 40:55D-49(d)* and *N.J.S.A.40:55D-52(b)*;
 - 2. Applications for modification or elimination of a significant condition or conditions in a memorializing resolution in any situation wherein the application for development for which the memorializing resolution is proposed for adoption required public notice;
 - 3. Applications for minor site plan approval pursuant to Section 6.5 of this Ordinance, unless waived by the Board;
 - 4. Applications for preliminary site plan approval pursuant to *N.J.S.A. 40:55D-46*;
 - 5. Applications for preliminary major subdivision approval pursuant to *N.J.S.A. 40:55D-48*;
 - 6. Applications for final site plan or final major subdivision approval pursuant to *N.J.S.A. 40:55D-50*;
 - 7. Applications to the Planning Board for certification of nonconformity pursuant to *N.J.S.A. 40:55D-68*;
 - 8. Appeals of determinations of the Zoning Officer pursuant to *N.J.S.A. 40:55D-70(a)*;
 - 9. Requests for interpretation pursuant to *N.J.S.A. 40:55D-70(b)*;
 - 10. Applications for variances pursuant to *N.J.S.A. 40:55D-70(c)* or *(d)*, or pursuant to *N.J.S.A. 40:55D-34* or *-36*;
 - 11. Requests for relief pursuant to *N.J.S.A. 40:55D-60* or *-76* as part of an application for development otherwise excepted herein from public notice.
- C. Content of Notice. Public notice for applications for development must state:
 - 1. the date, time and place of the hearing;

2. the nature of the matters to be considered, described in plain English understandable by a lay person, but also including the terminology used in this Ordinance (for example, notices should include a general explanation of the applicant's proposed development, use, or subdivision, a summary of any zoning requirements from which variances are being requested, and the nature and degree of all requested variances);
3. an identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the municipal tax assessor's office; and
4. the location and times at which any maps and documents for which approval is sought are available for public inspection ("Office of the Planning Board Secretary, Pennsville Township Construction Code Office, 88 North Broadway, Pennsville, New Jersey 08070, on weekdays during the regular business hours of 8:00 a.m. to 4:00 p.m.").

D. Notice must be given at least 10 days prior to the date of the hearing, as follows:

1. By publication in the official newspaper of the municipality (*South Jersey Times*).
2. The applicant must make a written request to the Pennsville Township Tax Assessor for a list of the names and addresses of owners of all real property as shown on the current tax duplicates which are located in the State and within 200 feet in all directions of the property which is the subject of such hearing. The Tax Assessor must make and certify the list within seven days following the applicant's request, and must include in the list the names, addresses and positions of those persons who, not less than seven days prior to the date on which the applicant requested the list, have registered to receive notice as public utilities, cable television companies or local utilities having rights-of-way or easements within the Township. The Tax Assessor's list will automatically be deemed invalid after ninety (90) days. If more than ninety (90) days elapse between the date of the Tax Assessor's certification of the list and the date the notice is to be given, the applicant must obtain and give notice pursuant to a new list. During the aforesaid ninety (90) day period the applicant shall be entitled to rely upon the information contained in such list for all notice purposes, and failure to give notice to any owner or to any public utility, cable television company, or local utility not on such list shall not invalidate any hearing or proceeding. A sum not to exceed \$0.25 per name, or \$10.00, whichever is greater, may be charged for such list. The applicant must then give notice to all of the listed persons and entities as follows:
 - a. By serving a copy of the notice on each property owner as shown on the Tax Assessor's list, or his or her agent in charge of the property and, in the case of preliminary and final site plan applications, and preliminary and final and major subdivision applications, on each named public utility, cable television company, or local utility representative as set forth on the Tax Assessor's list; or
 - b. By mailing a copy of the notice by certified mail to each property owner at his or her address as shown on the Tax Assessor's list and, in the case of major site plan and major subdivision applications, to each named public utility, cable television company, or local utility representative as set forth on the Tax Assessor's list.
 - c. The above served or mailed notice requirements shall be deemed satisfied by notice to the (1) condominium association, in the case of any unit owner whose unit has a unit above or below it, or (2) horizontal property regime, in the case of any co-owner whose apartment has an

apartment above or below it. 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 property which is the subject of the hearing, may be made in the same manner as to a corporation without further notice to unit owners, co-owners, or homeowners on account of such common elements or areas.

3. If the application involves property located within 200 feet of an adjoining municipality, notice must be given by personal service or certified mail to the clerk of such municipality.
 4. If the application involves property (a) located adjacent to an existing county road or a proposed road shown on the official county map or on the county master plan; (b) adjoining other county land; or (c) located within 200 feet of a municipal boundary (or within 200 feet of the Delaware River, which is one of Pennsville Township's municipal boundaries), notice must be given by personal service or certified mail to the Salem County Planning Board.
 5. If the application involves property which is adjacent to a State Highway, notice must be given by personal service or certified mail to the Commissioner of Transportation.
 6. If the application involves property which exceeds 150 acres or 500 dwelling units, notice must be given by personal service or certified mail to the State Planning Commission, and must include a copy of any maps or documents required to be on file with the municipal clerk pursuant to *N.J.S.A. 40:55D-10(b)*.
- E. Any notice made by certified mail as set forth above shall be deemed complete upon mailing.
- F. The applicant must file the *South Jersey Time's* affidavit of publication, and an affidavit of proof of service or certified mailing with the Planning Board no less than three (3) days prior to the noticed hearing to confirm that all of the above notice requirements have been satisfied.

SECTION 4.5 –HEARINGS

- A. At the application hearing the applicant will be sworn in and must testify, and present the sworn testimony of any witnesses regarding the application, particularly with respect to why the requested relief should be granted. The Board, the Board's professionals, and persons in attendance at the hearing will have an opportunity to ask questions and make statements about the application, to which the applicant will be given an opportunity to respond. The Board may continue hearings as needed to obtain additional testimony or information, or for the Board members to consider the application independently before voting, provided that the Board must decide all applications within statutorily-mandated deadlines which differ based on the application type, and also provided that the Board must publicly announce the date, time and location of the continued hearing so that all present will have adequate notice of same. If the Board requires additional time beyond the deadline to properly decide an application the applicant may, but is not required to consent to a waiver of the applicable deadline for decision. If the time for a decision is about to expire, the Board may deny the application on the merits or dismiss the application with or without prejudice if there is insufficient basis in the record for a decision.

SECTION 4.6 – POST-HEARING PROCEDURES AND REQUIREMENTS

- A. Memorialization and Notice of Decisions. The Planning Board must adopt a resolution to memorialize its decision on each application within 45 days as required by *N.J.S.A.* 40:55D-10. The Board Secretary must mail copies of the resolution to the applicant or to the applicant’s attorney if the applicant is represented, file a copy of the resolution with the Zoning Officer, and publish a brief notice of the Board’s decision in the official newspaper, *South Jersey Times*.

- B. Appeals to Township Committed pursuant to *N.J.S.A.* 40:55D-17. Any interested party may appeal to the Township Committee any final decision of the Planning Board approving an application for development pursuant to *N.J.S.A.* 40:55D-70(d) (“use” variance approval only). The procedures for such an appeal are provided in *N.J.S.A.* 40:55D-17, and the filing fee is set forth in the Section 3.5 fee schedule.