

ARTICLE II
DEFINITIONS

SECTION -2.1 OTHER APPLICABLE DEFINITIONS

Wherever a term which is defined in N.J.S.A. 40:55-D and/or the New Jersey State Uniform Construction Code is used in this Article, such term is intended to include and have the meaning set forth in the definition of such term found in said statute in addition to the definition for such term which may be included in this Article, unless the context clearly indicates a different meaning.

SECTION -2.2 INTENT OF CERTAIN TERMS AND WORDS

For the purpose of this Chapter, certain terms or words used herein shall be interpreted or defined as follows. Words used in the present tense include the future; the singular number includes the plural and the plural, the singular; the word "lot" includes the word "plot;" the word "building" includes the word "structure;" the word "zone" includes the word "district;" the word "occupied" includes the word "designed" and the phrase "intended to be occupied" the word "use" includes the words "arranged," "designed," and the phrase "intended to be used;" and the word "shall" is mandatory and not directory; and the word "abut" shall include the words "directly across from", "adjacent" and "next to." The term "such as," where used herein, shall be considered as introducing typical or illustrative, rather than an entirely exclusive or inclusive designation of, permitted or prohibited uses, activities, establishments or structures.

SECTION -2.3 DEFINITIONS

Certain words, phrases and terms in this Chapter are defined for the purpose herein as follows:

"Accessory Use or Building" means a subordinate use or building, the purpose of which is incidental to that of a main use or building on the same lot, except that any structure with a floor area in excess of six hundred (600") square feet or a building containing living space shall be subject to the setback requirements for principal buildings (see Section -5.8).

"Administrative Officer" means the Borough Clerk or such other official as the Governing Body may designate.

"Alterations" as applied to a building or structure, means a change or rearrangement in the structural supports; or a change in the exterior appearance; or a change in height, width or depth; or moving a building or structure from one location or position to another; or changing, adding to or removing from or otherwise affecting the exterior appearance of a building or structure.

"Apartment" means the same as "Dwelling Unit."

"Applicant" means a developer submitting an application for development.

"Application for Development" means the application form and all accompanying documents

required by ordinance for approval of a subdivision plat, site-plan, planned development conditional use, zoning variance or direction of the issuance of a permit pursuant to N.J.S.A. 40:55D-34 or 40:55D - 36.

"Automobile Repair Shop" means the same as "Motor Vehicle Repair Garage."

"Automobile Service Station" means the same as "Motor Vehicle Service Station."

"Basement" means a story partly underground and having more than one-half (1/2) of its height above the average level of the finished grade at the front of the building.

"Boat House, Private" means a boat house in which no business, commercial service or industry is carried on and not used for a dwelling purpose.

"Borough" means the Borough of Little Silver.

"Building" means any structure used or intended for supporting or sheltering any use of occupancy.

"Buildable Area" means that central portion of any lot between required yards and/or setback lines.

"Building Area" means the total of areas of outside dimensions on a horizontal plane at ground level of the principal building and all accessory building, exclusive of unroofed porches, terraces or steps having vertical faces, which at all points are less than three feet (3 ') above the level of the ground.

"Building Height" means the vertical distance measured from the average elevation of the existing grade at all corners of the building, to the highest point of the roof. Noncommercial, residential, roof top radio or television antennas with an overall height of less than ten feet (10') and an attached surface to the principal structure of less than two square feet (2') are excluded from this calculation.

"Building Line" (setback line) means the line beyond which a building shall not extend unless otherwise provided in this Chapter.

"Building Permit" means a permit issued for the alteration or erection of a building or structure in accordance with the provisions of the Building Code of the Borough.

"Building, Principal" means a structure in which is conducted the principal use of the site on which it is situated. In an district, any dwelling shall be deemed to be a principal building on the lot on which it is located.

"Carport" means a covering or roof to allow the parking of automobiles underneath. With the

exception of supports, the carport shall have no sides unless such sides are the exterior wall of an adjacent building.

"Cellar" means a story wholly or partly underground and having more than one-half (1/2) of its clear height below the average level of the adjoining ground.

"Certificate of Completeness" means a certificate issued by the Administrative Officer after all required submissions have been made in proper form, certifying that an application for development is complete.

"Certificate of Occupancy" means a certificate issued upon completion of construction and/or alteration of any building, or change in occupancy of any non-residential building. Said certificate shall acknowledge compliance with all requirements of this Chapter, such adjustments thereto granted by the Planning Board and/or all other applicable requirements.

"Church" means a building or group of buildings, including customary accessory buildings designed or intended for public worship. For the purpose of this Chapter, the word "Church" shall include chapels, congregations, cathedrals, temples, and other similar designations, as well as parish houses, convents and such accessory uses.

"Circulation" means 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" means 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.

"Complete Application" means an application for development which complies in all respects to the appropriate submission requirements set forth in this Chapter.

"Conditional Use" means a use permitted in a particular zoning district only upon a showing that such use in a specified location will comply with the conditions and standards for the location or operation of such use as contained in this Chapter, and upon the issuance of an authorization therefor by the Planning Board.

"Corner Lot" means a lot on the junction of and abutting two (2) or more intersecting streets where the interior angle of intersection does not exceed 135 degrees. Designation of the common lot line with the adjoining lots is described in Article V, Section 5.5.D & E.

"County Master Plan" means a composite of the master plan for the physical development of Monmouth County with the accompanying maps, plats, charts and descriptive and explanatory matter adopted by the County Planning Board pursuant to N.J.S.A. 40:27-2 and N.J.S.A. 40:27-4.

"County Planning Board" means the Planning board of the County of Monmouth.

"Coverage" means the same as "Lot Coverage."

"Curb Level" means the officially established grade of the curb in front of the midpoint of the front lot line.

"Days" means calendar days.

"Deck" means a patio-like structure located more than one foot above the finished grade.

"Density" means dwelling units per gross acre. (See "Residential Density Gross").

"Detention Basin" means an embankment and associated space for impoundment of water or, alternatively, the space for impoundment partially or entirely created by excavation rather than embankment, in either case designed to temporarily retain stormwater runoff.

"Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

"Development" means 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 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 Permit" means a document signed by the administrative officer (1) which is required by ordinance as a condition precedent to the commencement of a use or the erection, construction, reconstruction, alteration, conversion or installation of a structure or building, and (2) which acknowledges that such use, structure or building complies with the provisions of this Chapter or variance there from duly authorized by a municipal agency. Repairs which do not exceed \$2,500 in cost or which involve a correction or replacement that is of similar size, shape and appearance, as well as fences and signs shall not require a development permit.

"Development Regulation" means this Chapter, official map, ordinance or other municipal regulation of the use and development of land, or amendment thereto adopted and filed pursuant to N.J.S.A. 40:55D-1 et seq.

"District" means any part of the territory of the Borough, which is designated on the accompanying zoning map and to which certain uniform regulations and requirements of this Chapter apply.

"Division" means the Division of State and Regional Planning in the New Jersey Department of Community Affairs.

"Drainage Right-of-Way" means the lands required for the installation of storm water sewers or drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

"Dwelling" means any building or portion thereof designed or used exclusively for one or more dwelling units.

"Dwelling, Garden Apartment" means a multi-family dwelling in which units may be separated from one another by horizontal floors as well as vertical walls.

"Dwelling Unit" means a building or part thereof having cooking, sleeping and sanitary facilities designed for, occupied by one family, and which is entirely separated from any other dwelling unit in the building by vertical wall or horizontal floors, unpierced, except for access to the outside or common cellar. Pool houses and other similar accessory structures shall not be deemed a dwelling unit if same contains no provisions for heating.

"Dwelling, Single Family" means a building designed for or containing one dwelling unit.

"Dwelling, Multiple" means a building designed for or containing two (2) or more dwelling units, which are entirely separated from each other by vertical walls or horizontal floors, unpierced, except for access to the outside or a common cellar.

"Dwelling, Patio House" means a one-family dwelling on a separate lot with open space and set backs on three sides and with a court.

"Dwelling, Semi-Detached" means a one-family dwelling attached to one other dwelling by a common vertical wall.

"Dwelling Townhouse (TH-1)" means a one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

"Dwelling Townhouse (TH-2)" means a one family dwelling in a row of at least four such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from the other unit by one or more common fire resistant walls.

"Dwelling, Quadruplex" means four (4) attached dwellings in one structure in which each has two (2) open space exposures and shares one or two walls with an adjoining unit or units.

"Easement" means the right of the Borough, County, State, sewerage authority or other public or quasi-public agency, their agents, servants and employees to use the land subject to the easement for the purposes specified on the plat or in the document granting the easement.

"Environmental Commission" means the Little Silver Environmental Commission, a municipal advisory body, created pursuant to N.J.S.A. 40:56A-1 et seq.

"Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice and gravity.

"Essential Services" means underground gas, electrical, telephone, telegraph, steam or water transmission or distribution systems, including mains, drains, sewers, pipes, conduits, cables; and including normal above ground appurtenances such as fire alarm boxes, police call boxes, light standards, poles, traffic signals, hydrants, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by public utilities or municipal or other governmental agencies or for the public health or safety or general welfare.

"Exempt Development" means that site plan and/or subdivision approval shall not be required for the following:

1. Construction, additions or alterations related to single family detached dwellings on individual lots.
2. Interior alterations which do not increase the required number of off-street parking spaces.
3. Any change of use of land or structure to a use for which the standards of this Chapter are the same or less restrictive or stringent.
4. Construction or installation of underground facilities which do not alter the general use, appearance or grade of the site "provided that the underground installation of fuel oil tanks or tanks for the storage of flammable or combustible liquids or materials shall have been approved by the Little Silver Bureau of Fire Prevention".
5. Conveyances of property so as to combine existing lots are not to be considered subdivisions in accordance with the definitions of Subdivision contained in this Article.

"Family" means one (1) or more persons living together as a single entity or nonprofit housekeeping unit, as distinguished from individuals or groups occupying a hotel, club, fraternity or sorority house. The family shall be deemed to include necessary servants when servants shall the common housekeeping facilities and services.

"Fast Food Restaurant" means a public eating place where food and drink prepared for immediate consumption is purchased at a counter or a drive up window by the customer and either eaten in the purchaser's automobile or eaten on or off the premises. Those restaurants where food is consumed primarily at tables on the premises and served by waiters and waitresses or service is cafeteria style shall not be deemed "Fast Food Restaurants". "Fast Food

Restaurants" shall also not include those retail stores where food is primarily sold for preparation and consumption elsewhere, although as a secondary use of the premises, prepared food may also be sold over the counter for immediate consumption, such as a delicatessen.

"Fence" means an artificially constructed barrier of wood, masonry, stone, wire, and metal or any other manufactured material or combination of materials.

"Fence, Open" means a fence in which two-thirds (2/3) of the area, between grade level and the top cross members (wire, wood or other material), is open.

"Final Approval" means the official action of the Planning Board taken on a preliminary approved major subdivision or site plan after all conditions, engineering plans and other requirements have been completed or fulfilled and the required improvements have been installed or guarantees properly posted for their completion, or approval conditioned upon the posting of such guarantees.

"Final Plat" means the final map of all or a portion of the site plan or subdivision which is presented to the Planning Board for final approval in accordance with the provisions of this Chapter.

"Flood Fringe" means that portion of the flood hazard area outside the flood way.

"Flood Hazard Area" means the floodway and flood fringe areas as determined by the N.J. Department of Environmental Protection under Section 3 of the Flood Hazard Area Control Act (PL 1979, c.359).

"Flood Plain" the flood hazard areas of delineated streams and areas inundated by the 100-year flood in non delineated areas.

"Floodway" means the channel of a natural stream and portions of the flood hazard area adjoining the channel which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream.

"Floor Area, Gross" means the sum of the gross horizontal areas of the floor or several floors of a building measured from the outside faces of the exterior walls, or from the centerline of the walls common to two dwelling units or uses. For nonresidential uses, gross floor area shall include basements, cellars, attics and storage areas.

"Floor Area, Habitable" means the sum of the gross horizontal areas of the floor or several floors of a dwelling measured between the inside face of exterior walls or from the centerline of walls separating two dwelling units, having a clear ceiling height of seven feet, four inches (7' - 4") or greater, but not including any unfinished cellar or basement, or any garage space, breezeway, interior patios, enclosed porches or accessory building space.

"Floor Area Ratio" means the sum of the area of all floors of buildings or structure compared to the total area of the site.

"Free Standing Sign" means any sign supported by uprights or braces placed upon the ground and not attached to any building.

"Freshwater Wetland" means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation as determined by the New Jersey Freshwater Wetlands Protection Act and implementing the regulations of the N.J. Department of Environmental Protection.

"Garage" means a detached accessory building or portion of a main building for the parking or temporary storage of automobiles of the occupants of the main building to which the garage is accessory.

"Garage, Private" means a garage used as an accessory to the main building, which provides for the storage of motor vehicles and in which no occupation, business, or service for profit is carried on.

"Garage, Public" means a garage conducted as a business. The rental of storage space for more than two (2) motor vehicles not owned on the premises shall be deemed a public garage.

"Gas Station" means the same as "Motor Vehicle Service Station."

"Governing Body" means the Borough Council of the Borough of Little Silver.

"Grade, Finished" means the completed surface of lawns, walks and roads brought to grade as shown on official plans or designs relating thereto or as existing if no plans or designs have been approved.

"Gross Floor Area" means the same as "Floor Area."

"Gross Tract Building Coverage" means the percentage of the overall tract occupied by buildings.

"Historic Site" means any building, structure, area or property that is significant in the history, architecture, archeology or culture of the Borough of Little Silver, of Monmouth County, the State of New Jersey or the nation and has been so designated pursuant to N.J.S.A. 40:55D.

"Homeowner's Association" means a nonprofit corporation operating under a recorded land agreement through which:

1. Each lot owner, condominium owner, stockholder under a cooperative development or other owner or property or interest in the project shall be a member;

2. Each occupied dwelling unit is subject to charge for a proportionate share of the expenses for the organization's activities and maintenance, including any maintenance costs levied against the association by the Borough; and
3. Each owner and tenant has a right to use any common property.

"Home Office" shall mean offices, located within the residence of the proprietor, which do not generally require client visits to the site and require no more than one employee. Examples of such shall include, but not limited to engineers, architects, accountants, and attorneys. Medical and dental offices shall not be included in home offices.

"Impervious Surface" means the ratio of any surface impenetrable by water including but not limited to all paved or developed areas, the area covered by the roof of a structure, walkways, driveways, whether paved or gravel, patios, decks, tennis courts, swimming pools and any other improved portion of the property, to the total lot area. Any portion of a lot which is beyond the mean high water line, under a stream, river or inlet as well as streets, thoroughfares and public rights-of-way are excluded from the total lot area for the purpose of this calculation.

"Improved Street" means a street curbed and paved in accordance with the standards set forth in this Chapter for new streets or, alternately, a street which has been accepted and maintained by the Borough of Little Silver, Monmouth County or the State of New Jersey.

"Infiltration Basin" means a detention facility designed to infiltrate retained water to the subsurface and which is not an injection well.

"Interested Party" means (a) in a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey; and (b) in the case of a civil proceeding in any court or in 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 and/or pursuant to the provisions of N.J.S.A. 40:55D or whose rights to use, acquire, or enjoy property under the provisions of N.J.S.A. 40:55D, or under any other law of this State or of the United States have been denied, violated or infringed by an action or a failure to act under this Chapter.

"Interior or Inside Lot" means a lot bounded by a street on one side only.

"Interior Street or Road" means a street or road that is developed wholly, within, a parcel under one ownership and meeting all Borough standards.

"Land" includes improvements and fixtures on, above or below-the-surface.

"Landscape Plan" means a plan designed and prepared by a competent landscape expert. This plan will accompany and embody and be a part of the site plan or subdivision plan as required for presentation to the planning board. The landscape plan shall be submitted in quadruplicate. It shall clearly show locations and the land use of the area and specify by tabulation and by key the size, quantity variety and species (common and botanical names) of plant materials. Plan scale for details will not be less than 20 feet to one inch. Plans for tree location on large sites (20 acres or more) shall not be less than 100 feet to one inch, with plans showing particular details

of other planting not less than 20 feet to one inch. Plans showing construction and/or grading will be large enough to clearly show the intent and detail of the design. The landscape plan also shall show location of existing trees ten inches caliper or more, wooded areas, groups or groves of trees. Large trees, ten inches caliper or more, to be removed, shall be indicated. Changes in grade are to be clearly designated and coordinated with the site plan. A property maintenance schedule for both turf and shrubbery shall be part of or accompany the landscape plan.

"Light Manufacturing" means the fabrication, assembly or processing of goods or materials, or the storage of bulk goods and materials where such activities or materials create no hazard from fire or explosion, or produce no toxic or corrosive fumes, gas, smoke, obnoxious dust or vapor, offensive noise or vibration, glare, flashes or objectionable effluent.

"Loading Space" means an off-street space for the temporary parking of a commercial vehicle while loading or unloading. Such space must have clear means of ingress and egress to a public street at all times.

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

"Lot Area" means the acreage and/or square footage of a lot contained within the lot lines of the property. Any portion of a lot included in a street right-of-way shall not be included in calculating lot area. Portions of lots encumbered by easements shall be included in calculating lot area except for easements to the public for right-of-way. The minimum lot area for residential zones shall be provided in a contiguous area located outside of floodways, wetlands, wetland buffer areas, stormwater detention basins, easements, related watercourses and natural or proposed slopes fifteen percent (15%) or greater.

"Lot Coverage" means the area of a lot covered by buildings and structures and expressed as a percentage of the total lot area. The minimum lot area for residential zones shall be provided in a contiguous area located outside of floodways, wetlands, wetland buffer areas, stormwater detention basins, easements, related watercourses and natural or proposed slopes fifteen percent (15%) or greater.

"Lot Depth" means the mean horizontal distance between the front lot line and the rear lot line as measured from the midpoint of the front and rear lot lines. The minimum lot depth for residential zones shall be provided in a contiguous area located outside of floodways, wetlands, wetland buffer areas, easements, stormwater detention basins, related watercourses and slopes fifteen (15%) or greater.

"Lot Frontage"-The minimum "lot frontage" shall be the same as the lot width except that on curved alignments with an outside radius of less than five hundred (500) feet, the "lot frontage" may be reduced to not be less than seventy-five percent (75%) of the required minimum lot width. In the case of a corner lot, or a lot with two (2) or more sides fronting on a street, only one (1) frontage may be used to meet the requirements of this Chapter, but the front yard setback shall be met from all streets. The minimum lot frontage for residential zones shall be provided in a contiguous area located outside of floodways, wetlands, wetland buffer areas, easements, stormwater detention basins, related watercourses and slopes of fifteen percent (15%) or greater.

"Lot Line" means any line designating the extent or boundary of a lot which shall further be defined as follows:

1. Front Lot Line: A lot line or portion. Thereof which is coexistent with a street line and along which the lot frontage is calculated.
2. Rear Lot Line: The lot line most distant and generally opposite and parallel to the front lot line.
3. Side Lot Line: Any lot line other than a front or rear lot line

"Lot Width" means the shortest, straight, horizontal distance between side lot lines. The minimum lot width shall be met at the minimum front yard setback and shall be maintained throughout the depth of the lot at least as far as necessary to meet the minimum lot area. Except as set forth in the definition of "lot frontage", the lot's dimension at the street line shall be the same as the lot width. The minimum lot width for residential zones shall be provided in a contiguous area located outside of floodways, wetlands, wetland buffer areas, stormwater detention basins, related watercourses, easements, and slopes fifteen percent (15%) or greater, mean horizontal distance between side lot lines.

"Maintenance Guarantee" means any security which may be accepted by the municipality for the maintenance of any improvements required-by development regulations, except that cash may not be required.

"Major Subdivision" means any subdivision not classified as a minor subdivision.

"Master Plan" means a composite of one or more written or graphic proposals for the development of the Borough as set forth in and adopted pursuant to N.J.S.A. 40:55D-28.

"Mayor" means the Mayor of the Borough of Little Silver.

"Minor Subdivision" means any subdivision resulting in not more than two (2) lots plus the remainder of the original lot, all lots fronting on an existing improved street and not involving any new street or road provided that the Planning Board unanimously finds that the following conditions have been met:

1. That curbs or sidewalks or both have been installed or that the developer agrees to install and post performance guarantees for curbs and sidewalks, or that curbs, sidewalks or both are not required on-either or both sides of the street or elsewhere due to specific conditions in that area.
2. That the subdivision does not require the extension of municipal facilities at the expense of the municipality.
3. That the subdivision and construction resulting there from will not adversely affect drainage patterns of the basin in which the lots are situated.
4. That the subdivision will not adversely affect the development of the remainder of the parcel or the adjoining property.
5. That the subdivision is not in conflict with any provision or portion of the Master Plan, Official Map or this Chapter.

6. That in the event a drainage fund has been established by the Borough of Monmouth County an assessment has been charged to the lots and has been paid.
7. That no portion of the lands involved have constituted a part of a minor subdivision within two (2) years preceding the application, and no more than three (3) minor subdivisions shall be permitted for a period of fifteen (15) years preceding the application.

The Planning Board may also classify consolidations of lots and resubdivisions to readjust lot lines as "Minor Subdivisions" regardless of the number of lots involved.

"Motor Vehicle Repair Garage" means a building or portion of a building in which auto body work or the overhauling or replacement of engines is conducted as a business for profit.

"Motor Vehicle Service Station" means any area of land, including structures thereon, which is used for the retail sale of gasoline or any other motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories and which may include facilities for lubricating, washing or servicing of motor vehicles, except that auto. body work of any nature and retail sales unrelated to motor vehicle uses shall be prohibited.

"Municipality" means the Borough of Little Silver.

"Municipal Agency" means the Planning Board or governing body of the Borough when acting pursuant to N.J.S.A. 40:55D and this Chapter.

"Nonconforming Building" means a building existing at the date of the passage of this Chapter, which in the design or location upon a lot, does not conform to the regulations of this Chapter for the district in which it is located.

"Nonconforming Lot" means a lot existing at the date of the passage of this Chapter, which does not meet the minimum dimensions or area requirements for the zone in which it is located.

"Nonconforming Use" means a use which occupied a building or land at the time of enactment, of this Chapter and which does not conform with the regulations of the district in which it is located according to this Chapter.

"Non Point Source Pollution" means pollution from any source other than from any discernible, confined and discreet conveyances, and shall include, but not be limited to, pollutants from agriculture, silviculture, mining, construction, subsurface disposal and urban runoff sources.

"Occupancy" means the specific purpose for which land or a building is used, designed or maintained.

"Occupancy Permit" means the same as "Certificate of Occupancy."

"Official County Map" means the map, with changes and additions thereto, adopted and established, from time to time, by resolution of the Board of Chosen Freeholders of Monmouth County pursuant to N.J.S.A. 40:27-5.

"Official County Map" means the map, with changes and additions thereto, adopted and established, from time to time, by resolution of the Board of Chosen Freeholders of Monmouth County pursuant to N.J.S.A. 40:27-5.

"Official Map" means a map adopted by Chapter by the Borough Council pursuant to N.J.S.A. 40:55D-32 et seq.

"Off-Site" means located outside the lot lines of the lot in question, but within the property (of which the lot is a part) which is the subject of a development application or contiguous portion of a street or right-of-way.

"Off-Tract" means not located on the property which is the subject of a development application nor on a contiguous portion of a street or right-of-way.

"Off-Site and Off-Tract Improvements" means improvements made outside the lot in question or outside the original tract, respectively, to accommodate conditions generated by a proposed development, including but not limited to new improvements and extensions and modifications of existing improvements.

"On-Site" means located on the lot in question.

"On-Tract" means located on the property which is the subject of a development application or on a contiguous portion of a street or right-of-way.

"Open Space" means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use of enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space; provided that such areas may be improved with only those buildings, structures, streets and off-street parking and other improvements that are designed to be incidental to the natural openness of the land.

"Open Space, Unoccupied" means an unoccupied, grassed, wooded or landscaped area open to the sky on the same lot with a principal and/or accessory building. Improved sidewalks, paved paths or other pedestrian ways within an Unoccupied Open Space area, which exceed four feet (4') in width, shall be deducted in determining the Unoccupied Open Space area. Parking area or traffic channelization islands which are not landscaped or which have an area less than 350 square feet shall not be considered as Unoccupied Open Space.

"Parking Area, Private" means an open area, other than street, intended for the same use as a private garage.

"Parking Area, Public" means a paved open area, other than a street or other public way, used for the parking of automobiles and available to the public, whether for a fee, or as an accommodation of clients or customers.

"Parking Space" means an off-street space provided for the parking of a motor vehicle with a

minimum area of two hundred (200) square feet, exclusive of driveways or access drives.

"Party Immediately Concerned" means for purposes of notice any applicant for development, the owners of the subject property and all owners of property and government agencies entitled to notice under N.J.S.A. 40:55D-12.

"Patio" means a level landscaped and/or surface area directly adjacent to a principal building, within one foot of the finished grade, and not covered by a roof.

"Performance Guarantee" means any security which may be accepted by the Borough in lieu of a requirement that certain improvements be made before the municipal agency approves an application for development.

"Planned Residential Development" means an area with a specified minimum contiguous acreage of 40 acres or more to be developed as a single entity according to a plan containing one or more residential clusters, which may include appropriate recreational uses and open space for the benefit of the residential development.

"Planning Board" means the Borough of Little Silver Planning Board established pursuant to N.J.S.A. 40:55A-76. The term Planning Board as used in this Chapter also means the Board of Adjustment when it is acting pursuant to N.J.S.A. 40:55D-76.

"Planning Board Engineer" means the licensed New Jersey Professional Engineer specifically retained by the Planning Board or assigned by the Borough Engineer (with the consent of the Board) to render engineering services and advice to the Board. In the absence of the specific appointment of a Planning Board Engineer, the Borough Engineer may assume the duties of the office.

"Plat" means a map or maps of a subdivision or site plan.

"Plat, Final" means the plat of all or a portion of the development submitted for final approval in accordance with Article VI of this Chapter.

"Plat, Informal" means the plat submitted for purposes of classification and discussion.

"Plat, Preliminary" means the plat submitted as a part of the application for preliminary approval in accordance with Article VI of this Chapter.

"Porch" means an unenclosed platform, with or without a roof, attached to the outside of a building.

"Preliminary Approval" means the conferral of certain rights pursuant to N.J.S.A. 40:55D-46, 48 and 49 prior to final approval after specific elements of a development plan have been agreed upon by the Planning Board and the applicant.

"Preliminary Floor Plans and Elevations" means architectural drawings prepared during early and introductory stages of the design of a project illustrating in a schematic form, its scopes, scale, relationship to its site and immediate environs and exterior colors and finished.

"Premises" means a lot or tract of land or any combination thereof held under a single ownership or control.

"Primary or Principal Use" means the primary or principal purpose for which a building, structure or lot is used.

"Prohibited Use" means that use which is not specifically allowed or permitted; in a particular zone and for which the granting of a variance, under N.J.S.A. 40:55D-70D would be necessary, in order to provide that use in that particular zone.

"Professional Office" means the office of a member of a recognized profession, which shall include the office of:

Doctors or physicians, psychologists, dentists, insurance agents, optometrists, ministers, architects, landscape architects, professional engineers, land surveyors, artists, authors, attorneys, accountants, and real estate brokers and teachers.

"Projecting Sign" means any sign which is affixed to any building wall or structure and extends more than one foot (1') beyond the building wall.

"Public Development Proposal" means a master plan, capital improvement program or other proposal for land development adopted by the appropriate public body, or any amendment thereto.

"Public Drainage Way" means 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 channel and providing for the flow of sedimentation and erosion.

"Public Open Space" means an open space area conveyed or otherwise dedicated to the Borough or municipal agency, board of education, State or county agency, or other public body for recreational or conservational uses.

"Quorum" means the majority of the full authorized membership of a municipal agency.

"Recharge" means the replenishment of underground water reserves.

"Residential Density, Gross" means the number of dwelling units, which may be or are developed per acre of land, including areas used for public access and/or open space.

"Residential Density, Net" means the number of dwelling units, which may be or are developed per acre of land exclusive of areas used for public access and/or open space.

"Resubdivision" means (1) 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 (2) the alteration of any streets or the establishment of any new streets within any subdivision previously made and approved or recorded according to law, but does not include conveyances so as to combine existing lots by deed or by other instrument.

"Retaining Wall" means a structure more than eighteen (18") inches high erected between lands of different elevation to protect structures and/or to prevent the washing down or erosion of earth from the upper slope level.

"Right-of-Way" means the total width and length of the course of a street, watercourse, utility alignment or other way and within which all improvements and rights of access are confined.

"Screening" means any concentration or grouping of trees or shrubbery as may be required by this Chapter.

"Secondary Use" means the same as "Accessory Use."

"Sedimentation" means the deposition 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.

"Service Access" means that portion of any required yard area which is set aside for the sole purpose of access from the road adjoining the premises to the loading or unloading area on the premises, to service the building erected or the use conducted thereon.

"Setback" means the horizontal distance between a building or structure and any front, side or rear lot line, measured perpendicular to such lot lines at the point where the building is closest to such lot lines.

"Setback Line (Building Line)" means a line drawn parallel to a street line or lot line and drawn to the point of the building nearest to the street line or lot line, beyond which a building does not project. The minimum yard requirements shall be the minimum required setbacks. All setbacks from public streets shall be measured from the proposed right-of-way width as shown on the adopted Master Plan. Where the right-of-way may be coterminous with the curblines or edge of pavement, or where there may be less than ten (10) feet of additional right-of-way outside the curblines or edge of pavement, the minimum setback measured from the curblines or edge of pavement shall be ten (10) feet more than the minimum setback shown in the applicable zoning schedule.

"Shade Tree Commission" means the Shade Tree Commission of the Borough of Little Silver.

"Sight Triangle" means a triangular area cleared of natural or man-made material capable of obstructing a driver's vision. The sight triangle is located outside the street right-of-way at the intersection of either two (2) intersecting streets, or a street and a driveway.

"Sign" means a structure, building wall or other outdoor surface, or any device used for visual communications in order to bring the subject thereof to the attention of the public, and/or to display, identify and/or publicize the name, location and/or products or service of any person. See also Free Standing Sign.

"Sign Area" means the area defined by the outside edge of the frame surrounding the sign or by the edge of the sign if no frame exists. Where no frame or edge exists, the area shall be defined by a projected enclosed four-sided (straight lines) geometric shape which most closely outlines the sign.

"Siltation Basin" means a facility through which stormwater is directed and which is designed to collect silt and eroded soil from a designated area.

"Single Family Court Home" means the clustered detached dwelling units each occupied by a single household grouped around a central court, cul-de-sac or roadway such that all units obtain their driveway access only from the motor court.

"Site Plan" means a development plan of one or more lots on which is shown (1) the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, floodplains, marshes and waterways (2) the location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices, and (3) any other information that may be reasonably required in order to make an informed determination pursuant to the provisions of this Chapter requiring review and approval of site plans by the Planning Board adopted pursuant to N.J.S.A. 40:55D.

"Stormwater Runoff" means water flow resulting from precipitation.

"Story" means that portion of a building included between the surface of the floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. No "story" shall be deemed to be a first story if its floor level is more than six feet (6') above the level from which the height of the building is measured. A mezzanine floor shall be counted as a "story" if it covers over one-third (1/3) of the area of the floor next below it. For the purpose of this ordinance, a bi-level or split-level dwelling shall be considered a one story structure.

"Story, Half" means that portion of a building under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet (2') above the floor of such half-story. A basement shall also be included as a half-story.

"Street" means any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing State, county or municipal roadway, or a street or way shown upon a plat heretofore approved pursuant to law or approved by official action, or a street or way on a plat filed and recorded in the office of the county recording officer prior to the formation of a Planning Board and the grant to such Board of the power to review plats, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas and other areas within the street lines.

"Street-Line" means that line determining the limit of the highway rights of the public, either existing or contemplated.

"Structure" means 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.

"Structural Alterations" means the same as "Alterations."

"Subdivider" means any person or entity commencing proceedings under this Chapter to effect the subdivision of land hereunder.

"Subdivision" means 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: (1) Divisions of land found by the Planning Board or subdivision committee thereof appointed by the chairman to be for agricultural purposes where all resulting parcels are five (5) acres or larger in size, (2) divisions of property by testamentary or intestate provisions, (3) divisions of property upon court order and (4) conveyances so as to combine existing lots by deed or other instrument. The term "Subdivision" shall also include the term "resubdivision."

"Swimming Pool, Commercial" means a swimming pool that is operated for profit and open to the public or to a limited number of members and their guests, upon payment of an hourly, daily, weekly, monthly, annual or other fee or operated as a service rendered by a hotel, motel or apartment development whose units are rented to transient or permanent residents.

"Swimming Pool, Private" means a swimming pool located on a single-family lot with a residence on it and used as an accessory to the residence, and said pool is utilized with no admission charges and not for the purpose of profit.

"Tidal Wetlands" means an area that is inundated or saturated by fresh or saline waters under tidal influences at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

"Townhouse" means one (1) dwelling unit in a line of three (3) or more dwelling units attached along a common wall that is at least two stories in height, with each dwelling unit extending from the ground to the roof and having individual outside access and no interior rooms or hallways shared with other dwelling units.

"Tract" means an area of land comprised of one (1) or more lots having sufficient dimensions and area to meet the requirements of this Chapter for the use(s) intended. The land area of any existing streets, or easements for streets, or existing rights-of-way or easements for utilities shall not be included in calculating the area of the "tract".

"Use" means the specific purposes for which a parcel of land or a building or a portion of a building is designed, arranged, intended, occupied or maintained. The term "permitted use" or its -equivalent shall not be deemed to include any nonconforming use.

"Variance" means permission to depart from the literal requirements of zoning regulations pursuant to N.J.S.A. 55D and -N.J.S.A. 40:55D - 70 c and 70 d and N.J.S.A. 40:55D - 60, Subsections 29.2b, 57 c and 57 c of Chapter 291.

"Wall Sign" means any sign which is affixed to or painted on an exterior wall of any building, not projecting more than one foot (1') beyond the building wall.

"Wet Detention Basin" means a detention basin designed to retain some water on a permanent basis.

"Wetlands" see "Freshwater Wetlands" and "Tidal Wetlands".

"Yard" means An open space extending outward from the closest point of any building or structure to a lot line, street line, or the edge of any environmental area as noted below. All yard dimensions shall be measured horizontally, in a straight line and at right angles to either a straight street line, lot line, or the façade of a building or structure, or perpendicular to the point of tangent of curved lines and facades. The minimum yard requirements shall be provided in contiguous areas located outside of floodways, wetlands, wetland buffer area, easements, stormwater detention basins, related watercourses and slopes exceeding fifteen percent (15%).

"Yard, Front" means that the area extending across the full width of a lot located between the street line and the building or structure located on said lot. The front yard represents the actual distance between said street line, building or structure and may exceed the minimum front yard required by Ordinance. On corner lots, any yard abutting a street is defined as a front yard. For reverse frontage lots, see definition "Yard, Rear".

"Yard, Minimum Front" means the area measured outward from the building or structure and shall be provided in a contiguous area located between the building or structure and the edge of any floodways, wetlands, wetland buffer areas, easements, drainage swales serving more than two (2) abutting lots, stormwater detention basins, related watercourses and slopes exceeding fifteen percent (15%).

"Yard, Rear" means The open space extending across the full width of the lot located between the rear lot line and the building or structure. The "rear" of a building shall be opposite the designated front" of the building. In addition, the minimum rear yard shall be measured outward from the building or structure and shall be provided in a contiguous area located between the building or structure and the edge of any floodways wetlands, wetland buffer areas, easements, drainage swales serving more than two (2) abutting lots, stormwater detention basins, related watercourses and slopes exceeding fifteen percent (15%). On reverse frontage lots the rear yard shall be the open space between the rear of the building or structure and the street to which there is no access, except the minimum setbacks from the street shall conform to the front yard setbacks as required in the definition of "Yard, Front".

"Yard, Side" means an open space extending from the front yard to the rear yard and lying between each side lot line and the closest point of the building or structure. The minimum side yard shall be measured outward from the building or structure and shall be provided in a contiguous area located between the building or structure and the edge of any floodways, wetlands, wetland buffer areas, easements, drainage swales serving more than two (2) abutting lots, stormwater detention basins, related watercourses, and slopes exceeding fifteen percent (15%).