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GLOUCESTER CITY DEVELOPMENT ORDINANCE

ARTICLE I

SECTION 1 TITLE

- A. **Long Title...**An ordinance establishing zoning, subdivision and site plan regulations covering the use and development of land and structure, lot area, lot coverage of buildings and other structures, population density, parking provisions, height and to divide the City of Gloucester City into zoning districts, each with specific regulations in accordance with provisions of the New Jersey Municipal Land Use Law.
- B. **Short Title...**The ordinance will be known and may be cited as the Gloucester City Development Ordinance.

SECTION 2 GENERAL INTENT

The developmental ordinance which follows was developed by the City Council to promote the public health, safety, morals, general welfare and all other purposes enumerated in the New Jersey Municipal Land Use Law, Chapter 291, "Laws of New Jersey, 1975".

It is the intent and purpose of this ordinance:

- A. To encourage municipal action to guide the appropriate use of development of all lands in the City in a manner which will promote the public health, safety, morals and general welfare;
- B. To secure safety from fire, flood, panic and other natural and man-made disasters;
- C. To provide adequate light, air and open space;
- D. To ensure that the development of individual municipalities does not conflict with the development and general welfare of neighboring municipalities, the county and the state, as a whole;

SECTION 2 GENERAL INTENT (Cont'd)

- E. To provide the establishment of appropriate population densities and concentrations which will contribute to the well-being of persons, neighborhoods and communities, and preservation of the environment;
- F. To encourage the appropriate and efficient expenditure of public funds by coordination of the public development with land use policies;
- G. To provide sufficient space in appropriate locations for a variety of agricultural, residential, recreational, commercial and industrial uses and open space, both public and private, according to their respective environmental requirements in order to meet the needs of all New Jersey citizens;
- H. To encourage the location and design of transportation routes, which will promote the free-flow of traffic, while discouraging the location of such facilities and routes which result in congestion or blight;
- I. To promote a desirable visual environment through creative development techniques and good civic design and arrangements;
- J. To promote the conservation of historic sites and districts, open space, energy resources and valuable natural resources in the State and to prevent urban sprawl and degradation of the environment through the improper use of land;
- K. To encourage planned unit developments, which incorporate the best features of design and relate the type, design and layout of residential, commercial, industrial and recreational development to the particular site;
- L. To promote senior citizen community housing construction;
- M. To encourage coordination of the various public and private procedures and activities, shaping land development with a view of lessening the cost of such development and to the more efficient use of land;
- N. To promote the utilization of renewable energy resources;
- O. To promote the maximum practicable recovery and recycling of recyclable materials from municipal solid waste through the use of planning practices designed to incorporate the state recycling plan goals and to complement municipal recycling programs.

SECTION 3 ESTABLISHMENT OF CONTROLS

The regulations established by this ordinance shall be held to be the minimum standards necessary to achieve the purposes and objectives of the Gloucester City Master Plan and this ordinance and shall apply uniformly to each class or kind of structure or land. It is not the intention of this ordinance to interfere with, abrogate or annul any easements, covenants or other agreements between the parties, provided, however, that, where this ordinance imposes a greater restriction, that provisions of this ordinance shall govern.

A. Use of Land, Construction of Buildings

On and after the effective date of this ordinance, no land or building shall be used, developed, constructed, located, altered, rebuilt or enlarged for any purpose within Gloucester City except in conformity with the restrictions and regulations established by this ordinance for the district in which such land or building is located and in conformity with all other pertinent terms and provisions of this ordinance.

B. Existing Uses and Structures

In all districts, after the effective date of this ordinance, any existing building or structure and all tracts of land, the use of which is not in conformity with the regulation for the district in which it is located, shall be deemed as non-conforming and subject to the appropriate regulations of this ordinance governing such non-conforming lots, uses and structures.

C. Failure to Comply

Any building constructed, rebuilt, altered or located on or after the effective date of this ordinance, in violation of the restrictions and regulations established for the district in which it is located or in violation of other pertinent terms or provisions of this ordinance, shall be changed, altered, corrected or relocated by the person who constructed or located such building and by the owner of the land on which it is situated so that both building and premises shall conform with all provisions of this ordinance. Such change, alteration, correction or relocation shall be made within thirty (30) days after notification in writing by the zoning officer to the person who constructed, altered or located the building and the owner of the land on which it is located. Such notification shall be by personal service on these to be served by certified or registered mail, return receipt requested, to the last known address of those to be served.

SECTION 4 PLANNING BOARD

A. Establishment

A Planning Board is hereby established, pursuant to the provisions of the New Jersey Municipal Land Use Law, New Jersey Statute 40:55D-23 et. seq. In accordance with N.J.S.A. 40:55D-25.c(1), the Planning Board shall exercise, to the same extent and subject to the same restrictions, all the powers of a board of adjustment; however the Class I and the Class III members shall not participate in the consideration of applications for development which involve relief pursuant to subsection d. of C.40:55D-70 and Article I, Section 5-F.4 of the Development Ordinance. The Zoning Board of Adjustment is hereby abolished and its duties shall be extended to the Planning Board. The Planning Board shall now be known as the Gloucester City Planning Board/Zoning Board of Adjustment or simply the Gloucester City Development Review Board and all further references to the Planning Board in this ordinance shall now mean the Planning Board/Zoning Board of Adjustment.

B. Membership

The Planning Board shall consist of nine (9) members. For convenience in designating the manner of appointment, the membership shall consist of and be divided into the following four classes:

1. Class I - The Mayor
2. Class II - One of the officials of Gloucester City, other than a member of the governing body, to be appointed by the mayor. A member of the Environmental Commission, who is also a member of the Planning Board, as required by the New Jersey Statute 40:56A-1 et. seq. 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.
3. Class III - A member of the City Council, to be appointed by the Council.

SECTION 4 PLANNING BOARD (Cont'd)

4. Class IV - Six other citizens of Gloucester City, to be appointed by the mayor. The member of Class IV shall hold no other municipal office, except that one member may be a member of the Zoning Board of Adjustment or 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, shall be a Class IV Planning Board member, unless there be among the Class IV members of

the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education; in which case a member of the Environmental Commission shall be deemed to be the Class II member of the Planning Board.

C. Terms of office

The terms of the member comprising Class I shall correspond with his official tenure. Terms of the members comprising Class II and Class III shall be for one year or terminated at the completion of their respective terms of office, whichever occurs first, except by Class II member, who is also a member of the Environmental Commission. The term of a Class II or a Class IV commission shall be for three years, or terminate at the completion of his term of office as a member of the Environmental Commission, whichever occurs first.

The term of a Class IV member, who is also a member of the Board of Adjustment or the Board of Education, shall terminate whenever he is no longer a member of such other body or at the completion of his Class IV term, whichever occurs first.

The terms of all Class IV members first appointed under this act shall be so determined that, to the greatest practicable extent the expiration of such terms shall be distributed evenly over the first four years after their appointment; provided that the initial Class IV term as no member shall exceed 4 years. Thereafter, the Class IV term of each such member shall be four years.

SECTION 4 PLANNING BOARD (Cont'd)

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

D. Conflicts

No member or alternate member of the Planning Board shall be permitted to act on any matter in which he has either directly or indirectly any personal or financial interest. Any member or alternate member other than a Class I member, after a public hearing if he requests one, may be removed by the City Council for cause.

E. Absent Members

When any hearing before the Planning Board shall carry over to two or more meetings, a member of the Planning Board who is absent for one or more meetings shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding his absence from one or more of the meetings, provided, however, that such Board member has available to him a transcript or recording of the meeting from which he was absent and certifies, in writing, to the Board that he/she has read such transcript or listened to such recording.

F. Alternate Members

1. Not more than four alternate members may be appointed by the mayor and shall meet the qualification of Class IV members of the board. Alternate members shall be designated at the time of appointment as Alternate #1, Alternate #2, Alternate #3 and Alternate #4. 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 two alternates shall expire in any one year, provided 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 for the unexpired term only.

SECTION 4 PLANNING BOARD (Cont'd)

2. Alternate members may participate in discussion of the proceedings but may not vote except in the absence or disqualification of a regular member of any class. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternate #1 shall vote.

G. Organization

The Planning Board shall elect a chairman and vice-chairman from the member of Class IV and shall select a secretary, who may or may not be a member of the Planning Board or a municipal employee. It may employ or contract for and fix the compensation of legal counsel other than the municipal attorney, a planning consultant, a civil engineer and other staff and services, as it may deem necessary, not exceeding, exclusive of gives or grants, the amount appropriated by the governing body for its use.

H. Powers and Duties

1. The Planning Board is authorized to adopt bylaws and rules governing its procedural operation. The Planning Board shall follow the provisions of the Municipal Land Use Law and shall accordingly exercise its power in regard to those enumerated below as well as those authorized in N.J.S.A. 40:55D-25.c(1) and Article I, Section 5-F.4 of the Gloucester City Development Ordinance".
 - a. The master plan in accordance with the provisions of New Jersey Statute 40:55D-28;
 - b. Subdivision control and site plan review pursuant to New Jersey Statute 40:55D-37;
 - c. The official Map of the municipality pursuant to New Jersey Statute 40:55D-32;

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- d. The zoning ordinance including conditional uses pursuant to New Jersey Statute 40:55D-62;
- e. The capital improvement program pursuant to New Jersey Statute 410:55D-29;
- f. Variances and certain building permits in conjunction with subdivision, site plan and conditional use approval pursuant to New Jersey Statute 40:55D-60.

2. The Planning Board may also:

- a. Participate in the preparation and review of programs or plans required by state or federal law or regulation.
- b. Assemble data on a continuous basis as part of a continuous planning process.
- c. Perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies or officers.

I. Citizens Advisory Committee

The mayor may appoint one or more members of a citizens advisory committee to assist or collaborate with the Planning Board in its duties, but such person or persons shall have no power or vote or take other action required of the Board. Such person or persons shall serve at the pleasure of the mayor.

J. Environmental Commission

The Planning Board or the Board of Adjustment shall make available to the Environmental Commission an informational copy of every application for development submitted to either Board. Failure of the Planning Board or Zoning Board of Adjustment to make such an informational copy available to the Environmental Commission shall not invalidate any hearing or proceeding.

SECTION 5 ZONING BOARD OF ADJUSTMENT

A. Powers and Duties

In accordance with N.J.S.A. 40:55D-25.c(1), the Planning Board shall exercise, to the same extent and subject to the same restrictions, all the powers of a board of adjustment; however the Class I and the Class III members shall not participate in the consideration of applications for development which involve relief pursuant to subsection d. of C.40:55D-70 and Article I, Section 5-F.4 of the Development Ordinance. The Zoning Board of Adjustment is hereby abolished and its duties shall be extended to the Planning Board, which shall now be known as the Gloucester City Planning Board/Zoning Board of Adjustment or simply the Gloucester City Development Review Board.

1. Hear and decide appeals where is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative officer based on or made in enforcement of the zoning article of this ordinance;
2. Hear and decide in accordance with the provisions of this ordinance, requests for interpretation of the zoning map, or zoning article of this ordinance or for decisions upon other special questions upon which such board is authorized to pass by any zoning article of this ordinance;
3. a) where: (1) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (2) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property or, (3) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to the zoning article of this ordinance 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;

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- b) where in an application or appeal relating to a specific piece of property the purposes of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to the zoning article of this ordinance; provided, however, that no variance from those departures enumerated in subsection 4. of this section 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 the power to review a request for a variance, pursuant to New Jersey Statute 40:55D-60.
4. In particular cases and for special reasons, grant a variance to allow departure from regulations, pursuant to the zoning article of this ordinance to permit:
- (a) a use or principal structure in a district restricted against such use or principal structure;
 - (b) an expansion of a non-conforming use;
 - (c) deviation from a specification or standard, pursuant to New Jersey Statute 40:55D-67, pertaining solely to a conditional use;
 - (d) an increase in the permitted Floor Area Ratio, as defined in Article III;
 - (e) an increase in the permitted density, as defined in Article III, except as applied to the required lot area for a lot or lots for detached one or two dwelling unit buildings, which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision;

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- (f) a height of a principal structure which exceeds by ten (10) feet or ten percent (10%) the maximum height permitted in the district for a principal structure.

A variance under this subsection shall be granted only by affirmative vote of at least five (5) members.

5. If an application for single-family residential development requests one or more variances but not a variance for a purpose enumerated in subsection 4. of this section, the decision on the requested variance or variances shall be rendered under subsection 3 of this section.
6. No variance or other relief may be granted under the terms of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan and zoning ordinance. In respect of any airport hazard areas delineated under the "Air Safety and Hazardous Zoning Act of 1983", P.L. 1983, C. 260 (c.6:1-80 et seq), no variance or other relief may be granted under the terms of this section permitting the creation or establishment of a nonconforming use, which would be prohibited under the standards promulgated pursuant to that act, except upon issuance of a permit by the Commissioner of Transportation pursuant to that act. An application under this section may be referred to any appropriate person or agency for its report, provided that such reference shall not extend the period of time within which the Planning Board/Zoning Board of Adjustment shall act.

SECTION 5 ZONING BOARD OF ADJUSTMENT (Cont'd)

B. Other Powers

1. The Planning Board/Zoning Board of Adjustment, when hearing appeals and reviewing applications, shall have the power, pursuant to the New Jersey Municipal Land Use Law, New Jersey Statute 40:55D-76, to:
 - a. direct the issuance of a permit, pursuant to New Jersey Statute 40:55E-34, for a building or structure in the bed of a mapped street or public drainage way, a flood control basin or public area reserved pursuant to New Jersey Statute 40:55D-32;
 - b. direct the issuance of a permit, pursuant to New Jersey Statute 40:55D-36, for a building or structure not related to a street.

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C. Expiration of Variance

Any variance from the terms of this ordinance granted by the Planning Board/Zoning Board of Adjustment permitting the erection or alteration of any structure or structures or permitting a specified use of any premises shall expire by limitation, unless such construction or alteration shall have been actually commenced or unless such permitted use have actually been commenced within one (1) year from the date of approval of the variance. In addition, application may be made to the City Council for two (2) six-month time extensions. However, the running of this period of limitation shall be tolled from the date of filing of an appeal from the decision of the Planning Board/Zoning Board of Adjustment to the City Council or the court of competent jurisdiction until the determination of such appeal or proceeding.