

LAND DEVELOPMENT ORDINANCE
of the
BOROUGH of ELMER
SALEM COUNTY, N.J.

PREPARED BY THE SALEM COUNTY PLANNING STAFF

ORDINANCE 2002-1

AN ORDINANCE AMENDING THE LAND DEVELOPMENT
ORDINANCE OF THE BOROUGH OF ELMER

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Elmer,
County of Salem, and State of New Jersey as follows:

WHEREAS, the Mayor and Borough Council of the Borough of Elmer have
determined that LAND DEVELOPMENT ORDINANCE OF BOROUGH OF ELMER should
be amended to eliminate the Zoning Board of Adjustment described in Article III and to combine
all functions of the Zoning Board of Adjustment with the Municipal Planning Board as
authorized by New Jersey State § 40:55D-25(c) and said combined board shall be known as the
Elmer Land Use Board;

NOW THEREFORE, the Land Development Ordinance for the Borough of Elmer is
amended as follows:

ARTICLE I - LAND USE BOARD

§2.1. Establishment; Composition.

A. Regular Members.

There is hereby established in the Borough of Elmer a Land Use Board of nine (9)
members consisting of the following four (4) classes pursuant to 40:55D-23;

- A. Class I: The Mayor or his/her designee
- B. Class II: One (1) of the officials of the municipality, other than a member of
the Borough Council, to be appointed by the Mayor;
- C. Class III: One (1) member of the Borough Council appointed by the Council.
- D. Class IV: Six (6) other citizens of the Borough to be appointed by the Mayor.
The members of Class IV shall hold no other municipal office,

except that one (1) Class IV member may be a member of the Board
of Education.

B. Alternate Members.

The Mayor may appoint four (4) alternate members meeting the qualifications of
Class IV members. These shall be designated as alternates number 1 through 4. Their terms of
office shall be for two (2) years, and their expiration dates shall be staggered so that two (2)
alternates can be appointed each year. Should a vacancy occur in an alternate position, then the
Mayor may fill that position for the unexpired term only. Alternates may only serve as provided
in N.J.S.A. 40:55D23.1.

§2.2. Terms of Office.

- 1. The term of the Class I members shall correspond with his or her official
tenure.
- 2. The terms of the Class II and Class III members shall be for one (1) year or
terminate at the completion of their respective terms of office, whichever occurs first.
- 3. The term of a Class IV member, who is also a member of the Board of
Education shall terminate whenever he or she is no longer a member of the Board of Education
or at the completion of his or her Class IV term, whichever occurs first. The terms of all Class
IV members first appointed pursuant to this ordinance shall be so determined that to the greatest
practicable extent, the expiration of such terms shall be distributed evenly over the first four (4)
years after their appointments, as determined by resolution of the Elmer Borough Council;
provided, however, that no initial term of any Class IV member shall exceed four (4) years and
further provided that nothing herein shall affect the term of any present member of the Planning
Board, all of whom shall continue in office until the completion of the terms for which they were
appointed. Thereafter, all Class IV members shall be appointed for terms of four (4) years,
except as otherwise herein provided. All terms shall run from January 1 of the year in which the
appointment was made.

§ 2.3 - 2.5 (No Change)

§ 2.6. Powers and Duties.

- A. The Land Use Board shall have the following powers and duties: (No Change)
- B. (No change)
- C. The Land Use Board shall have the following additional powers previously
granted to the Zoning Board of Adjustment:

- (1) To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision or refusal made by an administrative official or agency based on or made in the enforcement of the zoning ordinance. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such other requirement, decision or determination as ought to be made and, to that end, have all the powers of the administrative officer from whom the appeal was taken.
- (2) To hear and decide requests for interpretation of the zoning map or ordinance or for decisions on other special questions upon which the Board is authorized to pass in accordance with N.J.S.A. 40:55D-1, et seq.
- (3) Whereby reason of exceptional narrowness, shallowness or shape of a specific piece of property or by reason of exceptional topographic conditions or by reason of other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulations in the zoning 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; provided, however, that no variance shall be granted under this subsection to allow a structure or use in a district restricted against such structure or use.
- (2) To grant a variance to allow a structure or use in a district restricted against such structure or use in particular cases and for special reasons, but only by the affirmative vote of at least two-third (2/3) of the fully authorized membership of the Board. No variance or other relief may be granted under the provisions of this section unless such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The Class I and Class III members of the Land Use Board shall not participate in or vote upon any application for a use variance brought under this paragraph pursuant to N.J.S.A. 40:55D070(d).
- (3) To direct the issuance of a permit pursuant to N.J.S.A. 40:55D-34 for a building or structure in the bed of a mapped street or public drainage way or flood control basin or public area reserved on the official map but only by the affirmative vote of a majority of the full authorized membership of the Board.

- (4) To direct issuance of a permit for a building or structure on a lot not abutting a street as required by N.J.S.A. 40:55D-35 where the enforcement of this requirement would entail practical difficulty or unnecessary hardship or where the circumstances do not require the building or structure to be related to a street pursuant to N.J.S.A. 40:55D-36.

D. Pursuant to N.J.S.A. 40:55D-25(c) when this Board is exercising the powers of the previous Zoning Board of Adjustment as set forth herein, the Class I and Class II members shall not participate in the consideration of actions for development which involve relief pursuant to Subsection (d) of N.J.S.A. 40:55D-70.

E. The Land Use Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this Chapter.

F. No variance or other relief may be granted under the provisions of this section, including a variance or other relief involving an inherently beneficial use, without a showing that such variance or other relief can be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the zone plan. Any application under any subsection of 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 Land Use Board shall act.

ARTICLE II - No Change

ARTICLE III - TIME LIMITS AND APPEALS.

(Previous §2.16 - 2.22 - Eliminated)

§2.16. Appeals and Time Limits.

1. Pursuant to N.J.S.A. 40:55D-72 appeals to the Land Use Board may be taken by any interested party affected by any decision of an administrative officer of the municipality or of the historic preservation commission based on or made in the enforcement of the zoning ordinance or official map. Such appeal shall be taken within twenty (20) days by filing a notice of appeal with the officer from whom the appeal was taken, together with ten (10) copies of said notice with the Secretary of the Land Use Board specifying the grounds of such appeal. The officer from whom the appeal is taken shall immediately transmit to the Board all of the papers constituting the record upon which the action appealed from was taken.
2. A developer may file an application for development with the Land Use Board for action under any of its powers without prior application to an administrative officer pursuant to N.J.S.A. 40:55D-72. Ten (10) copies of a

ARTICLE VI - GENERAL PROVISIONS

completed application form and ten (10) copies of all plats or plans along with all required accompanying documents and fees shall be filed with the Land Use Board secretary at least ten (10) days prior to the date set for the hearing. The applicant shall obtain all necessary forms from the Land Use Board secretary who shall inform the applicant of the steps to be taken to initiate proceedings and of the regular meeting dates of the Board.

3. An appeal stays all proceedings in furtherance of the action in respect to which the decision appealed from was made, unless the officer from whose action the appeal is taken certifies to the Land Use Board, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by an order of the Superior Court of New Jersey upon notice of the officer from whom the appeal is taken and on due cause shown.
4. The Land Use Board shall render its decision not later than one hundred and twenty (120) days after an appeal is taken of an administrative officer or after the submission of a complete application for development pursuant to the provisions of N.J.S.A. 40:55D-72b. Failure of the Board to render a decision within the specified time period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.
5. Any variance granted from the terms of this Chapter permitting the erection or alteration of any structure or structures shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said Chapter, or unless such permitted use has actually been commenced, within one (1) year from the date of publication of the notice of determination of the Land Use Board, provided that a longer period of time before such expiration may be granted by the Board as a term and condition of the variance where the Board finds such an extended time period reasonably necessary and appropriate due to circumstances clearly demonstrated by the applicant at the hearing; except, however, that the running of the period of limitation herein provided shall be suspended from the date of filing an appeal from the decision of the Land Use Board to a court of competent jurisdiction, until the termination in any matter of such appeal or proceeding.

§2.17 - Appeal to Borough Council - (Previously §2.22)

Any appeal from any decision of the Land Use Board with regard to those powers noted in § 2.6C may be taken into the Borough Council provided that such appeal shall be made within ten (10) days of the date of the publication of the Board's final decision. Such appeal shall be taken in accordance with N.J.S.A. 40:55D-17.

§2.18. Meetings - (Previously §2.23).

1. Regular meetings of the Land Use Board shall be scheduled no less often than once a month and any meeting so scheduled shall be held as scheduled unless canceled for lack of applications for development to process.
2. Special meetings may be called by the chairman or on request of any two (2) Board members which shall be held on notice to its members and the public in accordance with all applicable legal requirements.
3. No action shall be taken at any meeting without a quorum being present.
4. All action shall be taken by a majority of the vote of the members present except as otherwise provided in the Municipal Land Use Law (N.J.S.A. 40:55d-1, et seq.) the Open Public Meetings Law (N.J.S.A. 10:4-6, et seq.) or as provided in this ordinance.
5. The provisions of the Open Public Meetings Law, where applicable, shall be observed.

§2.19 Minutes - (Previously §2.24)

(No Change other than Section #)

§2.20. Notice Requirements for Hearings - (Previously §2.25)

(No Change other than Section #)

§ 2.21. Hearings - (Previously §2.26)

1. Rules. The Land Use Board shall make rules governing the conduct of hearings which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1, et seq., or of this Chapter.
2. (No Change other than Section #)
3. (No Change other than Section #)
4. (No Change other than Section #)
5. Records. The Board shall provide for the verbatim recording of the proceedings by either stenographic, mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his or her expense.

Elmer Zoning Board of Adjustment shall be transferred to the Elmer Land Use Board for disposition.

ADOPTED: January 1, 2002
Approved by the Mayor on
January 1, 2002

ATTEST:

Herbert D. Stiles, Jr.
Herbert D. Stiles, Jr., Mayor

Beverly S. Richards
Beverly S. Richards, Clerk

Roll call vote:	Yes	No	Abstaining	Absent
Lynda Davis	✓	—	—	—
Peggy L. Harz	✓	—	—	—
Robert Y. McWilliams	✓	—	—	—
Marc Adams	✓	—	—	—
Stephen A. Richards	✓	—	—	—
Joseph Sternberger	✓	—	—	—

§2.22. Decisions - (Previously §2.27)

- (No Change other than Section #)
- (No Change other than Section #)
- (No Change other than Section #)
- A brief notice of every final decision shall be published in the official newspaper of the municipality. Such publication shall be arranged by the Land Use Board secretary without separate charge to the applicant. Said notice shall be sent to the official newspaper for publication within ten (10) days of the date of any such decision.

§2.23. Conflicts of Interest.

No member of the Land Use Board shall act on any matter in which he or she has either, directly or indirectly, any personal or financial interest. Whenever any such member shall disqualify himself or herself from acting on a particular matter, he or she shall not continue to sit with the Board on the hearing of such matter nor participate in further discussion or decision relating thereto.

§2.24. Payment of Taxes.

Pursuant to the provisions of N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-65, every application submitted to the Land Use Board shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application; or, if it is shown that taxes or assessments are delinquent on said property, any approvals or other relief granted by the Board shall be conditioned upon the prompt payment of such taxes and/or assessments or the making of adequate provision for the payment thereof in such manner that the municipality will be adequately protected.

§ 2.25. Fees - (Previously §2.30)

(No Change other than Section #)

Fees due and payable with applications to the Land Use Board shall be established by a separate fee ordinance.

All ordinances or parts of ordinances heretofore adopted that are inconsistent with the terms and provisions of this ordinance are hereby repealed to the extent of such inconsistency. This ordinance shall become effective on January 1, 2002. As of that date, the Elmer Zoning Board of Adjustment shall no longer exist and all applications and matters pending before the

ORDINANCE 2006-8
LAND DEVELOPMENT ORDINANCE OF THE BOROUGH OF ELMER-AMENDMENT
NO. 2

This Ordinance shall be known as and may be cited as **Land Development Ordinance of the Borough of Elmer-Amendment No. 2.**

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Elmer County of

Sale and State of New Jersey as follows:

1. The foregoing Ordinance is amended by changing the application fee entitled **Fee Schedule** (Page 32) and amending the following:

- A. Minor Subdivision
 - 1. Application fee-\$125.00
 - 2. Review fee deposit-\$200.00 per lot with a minimum deposit of \$65.00 for legal and engineering review, including map revisions required by the subdivisions.
- B. Major Subdivision
 - 1. Application fee-\$250.00
- C. Major Subdivision Preliminary Review
 - 1. Application fee-\$250.00
 - 2. Review fee deposit-\$250.00 per lot, with a minimum deposit of \$1,000.00 for legal and engineering review.
- D. Major Subdivision Final Review
 - 1. Application fee-\$400.00
 - 2. Review fee deposit-\$250.00 per lot, with a minimum deposit of \$1,000.00 for legal and engineering review.
- E. Conditional Use
 - 1. Application fee-\$150.00

2. Review fee deposit-\$2.00 per gross square foot of building floor area included in the proposed development, plus \$200.00 per area pro-rated for fractions of land included in the lots involved, but not less than \$200.00.

F. Site Plan, Preliminary Review

- 1. Application fee-\$250.00
- 2. Review fee deposit-\$1,250.00 per lot or fraction thereof submitted for review, with a minimum of \$1,250.00 for legal and engineering review.

G. Site Plan, Final Review

- 1. Application fee-\$150.00
- 2. Review fee deposit-\$100.00 per lot or fraction thereof submitted for review, with a minimum of \$500.00 for legal and engineering review.

Reduced fee for certain residential applicants.

When the subject matter of an application consists of an addition, whether attached or detached, to an existing single-family residential how ,or alterations thereof, site plan approval, subdivision approval or variance fees shall be as follows:

- A. Application fee-\$50.00
- B. Review Fee Deposit-\$300.00

The determination of the appropriate application fee shall be at the discretion of the Planning Board and/or Zoning Board and said determination shall be binding on the applicant.

H. Use Variance

- 1. Application fee-\$150.00
- 2. Review fee deposit-\$2.00 per gross square foot of building floor area included in the proposed development, plus \$500.00 per area pro-rated for fractions of land included in the lots involved, but not less than \$500.00.
All other types of variances-\$25.00.

I. Site Plan Waiver

- 1. Application fee - \$50.00 plus escrow fees of \$500.00

J. Amendment of Minor Subdivision Approval

- 1. Application fee - \$50.00 plus escrow fees of \$300.00
- Informal Review
- 1. No fees

L. Amendment of Preliminary Major Subdivision Approval

- 1. Application fee - \$150.00 plus escrow fees of \$500.00

M. Bulk Variance

- 1. Application fee - \$75.00 plus escrow fees of \$500.00
 - 2. The foregoing Ordinance is further amended by adding the following to the "Elmer Borough Zoning Ordinance Schedule of District Regulations Maximum-Minimum Building Standards (Page 37):
- | | | | | | | | | |
|------------------------|---------|------|------|---------|---------|---------|---------|-----|
| RP Principal/Accessory | 15,000' | 125' | 175' | 35'/35' | 20'/10' | 40'/20' | 35'/25' | 20% |
|------------------------|---------|------|------|---------|---------|---------|---------|-----|

3. The foregoing Ordinance is further amended by adding the following to the "Elmer Borough Zoning Ordinance Schedule of District Regulations Maximum-Minimum Building Standards (Page 39):

RP A. Principal Uses

- 1. Single family dwellings
- 2. Professional offices limited to accountants, architects, brokers (insurance, real estate and stock), consulting engineers and other professional consultants, doctors, lawyers and land surveyors.

N/A

B. Accessory Uses

- 1. Permitted by right in the LR-1 district.

Regulation pertaining to professional offices: A conversion to or development of a professional offices: A conversion to or development of a professional office shall be planned to preserve the residential flavor and special amenities of Front Street to the fullest extent. The Board shall require special safeguards to achieve this.

LC A. Principal Uses (medical & Civic)

- 1. Medical laboratories
- 2. Pharmacies
- 3. Establishments for the sale or lease of and surgical equipment and supplies.
- 4. Public educational, recreational, cultural uses.

- 1. Medical clinics
- 2. Funeral homes

- B. Accessory Uses
 - 1. Permitted by right in the MR district
 - 2. Any use customarily incidental to a permitted use.

- 4. The foregoing Ordinance is further amended by deleting Section 3.1.1, A. and

B. (Page 42) and the following:

- A. For the purposes of this Ordinance, the Borough of Elmer if hereby divided into the districts as follows:

- "CONS" Conversation
- "LR-1" Low density residential 1
- "LR-2" Low density residential 2
- "LM" Low-medium density residential
- "MR" Medium density residential
- "RP" Residential professional
- "LC" Limited commercial
- "GB" General business
- "HB" Highway business
- "CL/I" Commercial-light industry
- "LI" Light industry

- B. District map. The boundaries of these zoning districts are established on the map entitled "Elmer Borough Zoning Map", dated February 1, 1993, or as may be subsequently amended. Said map and all notions, references, and dates pertaining to zoning and zoning districts shown thereon are hereby incorporated by reference into this ordinance and shall be as much a part of this ordinance as if they were fully described herein.

- 5. The foregoing Ordinance is further amended by adding the following to Section 3.3 (Page 43) entitled "Justification and Intent of District Categories, Locations and Regulations":

RP-Residential Professional

The residential-professional district has been delineated to encourage the location of professional offices and health related support facilities because of the character of existing development in this area and the proximity of the hospital.

LC-Limited Commercial District


The limited commercial district includes an area along Front Street in the western portion of the Borough. The intent of this district is to encourage mixed commercial and light industry uses, thus permitting economic development compatible with the current land use pattern.

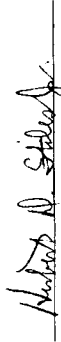
6. If any section or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any part thereof.
7. All Ordinances, or parts of Ordinances, heretofore adopted and that are consistent with the terms and provisions of this Ordinance are hereby repealed to the extent of such inconsistency.
8. This Ordinance shall be effective upon its final passage, adoption and publication in the manner prescribed by law.

ADOPTED: December 13, 2006

Approved by the Mayor on December 13, 2006

ATTEST:


Beverly S. Richards, Clerk


Herbert D. Stiles, Jr., Mayor

Roll call vote:

Lynda Davis	✓	—	—
Peggy L. Harz	✓	—	—
Benjamin H. Laury	✓	—	—
Lewis M. Schneider	✓	—	—
Steven A. Schalick	✓	—	—
Joseph Sternberger	✓	—	—

YES NO ABSTAINING ABSENT

PUBLIC NOTICE

ORDINANCE 97-7

Amendment to Land Development Ordinance of the Borough of Elmer and Creating the Position for Two Alternate Members on Both the Borough of Elmer Planning Board and the Borough of Elmer Board of Adjustment

BE IT ORDAINED by the Mayor and Borough Council of the Borough of Elmer, County of Salem, and State of New Jersey, that the Land Development Ordinance shall be amended by adding the following:

CHAPTER II - DEVELOPMENT PROCEDURES
ARTICLE I - PLANNING BOARD

(1) Section 2.1 Establishment and Composition

C. The Planning Board shall consist of, in addition to the foregoing permanent members, two alternate members. Alternate members shall be appointed by the appointing authority for Class IV members, and shall meet the qualifications of Class IV members of nine-member planning boards. Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1" and "Alternate No. 2". The terms of the alternate members shall be for 2 years, except that the terms of the alternate member shall expire in any 1 year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed 2 years. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.

No alternate member shall be permitted to act on any matter in which he has either directly or indirectly any personal or financial interest. An alternate member may, after public hearing if he requests one, be removed by the governing body for cause.

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

ARTICLE III - ZONING

BOARD OF ADJUSTMENT

(2) Section 2.16 Establishment and Composition

C. In addition to the foregoing, the Board of Adjustment shall have two alternate members. Alternate members shall be designated at the time of appointment by the authority appointing them as "Alternate No. 1" and "Alternate No. 2". The

Proof of Publication

State of New Jersey,
Salem County, ss.

..... Al-Jo. Voeckler..... of full age.

being duly sworn according to law, on his (her) oath, that he (she)

isOffice-Manager..... of the

"Elmer Times," a Newspaper printed and published in the Borough of

Elmer, County of Salem, and State of New Jersey, and that the notice of

which the annexed is a true copy was published in said Newspaper, on

the 19th day of June, 1997

Signed, Al-Jo Voeckler

Sworn and subscribed before me this

twenty-third day of June, A. D.

nineteen hundred and ninety-seven
Christine G De Vito

terms of the members first appointed under this act shall be so determined that to the greatest practicable extent, the expiration of such terms shall be distributed, in the case of regular members, evenly over the first four years after their appointment, and in the case of alternate members, evenly over the first two years after their

appointment; provided that the initial terms of no regular members shall exceed two years.

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

(3) If any section or provision of this Ordinance shall be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole or any part thereof.

(4) All Ordinances, or parts of Ordinances, heretofore adopted and that are inconsistent with the terms and provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

(5) This Ordinance shall be effective upon its final passage, adoption and publication in the manner prescribed by law.

that the foregoing proposed Ordinance was introduced and passed by the Mayor and Borough Council of the Borough of Elmer, County of Salem, and State of New Jersey, at a special meeting held on Tuesday, June 10, 1997, and that a public hearing thereon will be conducted by the Mayor and Borough Council at its meeting on Wednesday, July 9, 1997 at 8:00 p.m., at the Borough Hall, Elmer, New Jersey after which the Ordinance will be considered for adoption.

Beverly S. Richards, Clerk

Borough of Elmer

NOTICE

NOTICE IS HEREBY GIVEN

Fee: \$17.28

6/19/97