

Chapter 165

SUBDIVISIONS AND SITE PLANS

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[**HISTORY: Adopted by the Borough Council of the
Borough of Teterboro 5-10-1977 by Ord. No. 157.
Amendments noted where applicable.]**

GENERAL REFERENCES

Land use procedures — See Ch. 34.
Uniform construction codes — See Ch. 81.
Flood damage prevention — See Ch. 107.
Sewers — See Ch. 145.
Streets and sidewalks — See Ch. 161.
Zoning — See Ch. 185.

§ 165-1. **Short title.**

This chapter shall be known as the "Subdivision and Site Plan Ordinance of the Borough of Teterboro."

§ 165-2. **Purpose.**

The purpose of this chapter is to provide rules, regulations and standards to guide land subdivision and the development of land in the Borough in order to promote its public health, safety, convenience and general welfare. It shall be administered to ensure orderly growth and development, conservation, protection and proper use of land and adequate provision for circulation, utilities and services.

§ 165-3. **Administration by Planning Board.**

As authorized by N.J.S.A. 40:55D-37, the provisions of this chapter shall be administered by the Planning Board.

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§ 165-4. Construal of provisions.

This chapter shall not be construed to repeal Chapter 185, Zoning, or any part thereof. All other ordinances which are inconsistent with the provisions of this chapter shall be deemed superseded to the extent of such inconsistency.

§ 165-5. Definitions.

Certain words and terms in this chapter are to be given the following meanings:

ADMINISTRATIVE OFFICER— The person with whom applications for development are filed pursuant to this chapter. The administrative officer for the Board of Adjustment shall be the Clerk to the Board of Adjustment. The administrative officer for the Planning Board shall be the Clerk to the Planning Board.

APPLICANT— A developer submitting an application for development.

APPLICATION FOR DEVELOPMENT— The application form and all accompanying documents required by ordinance for approval of a subdivision plat, site plan, conditional use, zoning variance or direction of the issuance of a permit for construction within the bed of a mapped street or for construction of a structure not having access or not related to a street.

CERTIFICATE AS TO APPROVAL OF SUBDIVISION OF LAND— A certificate issued by the proper administrative officer of the Borough certifying:

- A. That there is in the Borough a duly established Planning Board;
- B. That there is in the Borough an ordinance controlling the subdivision of land;
- C. Whether a subdivision has been approved by the Planning Board for the land designated in the application for such

certificate and, if so, the date of such approval and any extensions and terms thereof.

DAYS — Calendar days.

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

DRAINAGE — The removal of surface water or groundwater from land by drains, grading or other means, and includes control of runoff during and after construction or development to minimize erosion and sedimentation, to assure the adequacy of existing and proposed culverts and bridges, to induce water recharge into the ground where practical, to lessen nonpoint pollution, to maintain the integrity of stream channels for their biological functions as well as for drainage and the means necessary for water supply preservation or prevention or alleviation of flooding. [Amended 7-13-1999 by Ord. No. 408]

DRAINAGEWAY — The lands required for the installation of stormwater 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 in accordance with N.J.S.A. 58:16A-50 et seq. [Amended 7-13-1999 by Ord. No. 408]

INTERESTED PARTY —

- A. In a criminal or quasi-criminal proceeding, any citizen of the State of New Jersey; and
- B. 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 or whose rights to use, acquire or enjoy property under this chapter or under any law of this state or of the United States have been denied, violated or infringed by an action or a failure to act hereunder.

LOADING SPACE — Any off-street space available for the loading or unloading of goods and having direct usable access to the street or alley.

LOT — A parcel or portion of land separated from other parcels or portions by description, as on a subdivision or record of survey map or by metes and bounds for purpose of sale, lease or separate use.

LOT AREA — The area of a lot expressed in square feet or acres. Any portion of a lot included within the right-of-way lines of a street shall not be included in calculating lot area. However, any portion of a lot or lots dedicated to the Borough for other public use shall not be deducted from the calculation of the lot area.

MAINTENANCE GUARANTY — Any security which may be accepted by the Borough for the maintenance of any improvements required by this chapter, including but not limited to surety bonds, letters of credit under the circumstances specified in N.J.S.A. 40:55D-53.5, and cash.
[Amended 7-13-1999 by Ord. No. 408]

MAJOR SUBDIVISION — Any subdivision not classified as a minor subdivision.

MASTER PLAN — A composite of the mapped and written proposals recommending the physical development of the

Borough which shall have been duly adopted by the Planning Board.

MINOR SUBDIVISION — Any subdivision that does not involve:

- A. The creation of more than three lots;
- B. A planned development;
- C. Any new street; or
- D. Extension of any off-tract improvement.

OFF-SITE — 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 — 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.

ON-SITE — Located on the lot in question.

ON-TRACT — Located on the property which is the subject of a development application or on a contiguous portion of a street right-of-way.

OWNER — Any individual, firm, association, syndicate, copartnership or corporation having sufficient proprietary interest in the land sought to be developed to commence and maintain proceedings to develop the same under this or any other chapter.

PARKING SPACE — An off-street space available for the parking of a motor vehicle, provided that such space shall have a minimum width of 10 feet and a minimum depth of 20 feet, exclusive of maneuvering areas, passageways, driveways and loading spaces appurtenant thereto.

PARTY IMMEDIATELY CONCERNED — Any applicant for development, the owners of the subject property and all owners

of property and government agencies entitled to notice under this chapter.

PERFORMANCE GUARANTY — Any security which may be accepted by the Borough, including but not limited to surety bonds, letters of credit under the circumstances specified in N.J.S.A. 40:55D-53.5, and cash. [Amended 7-13-1999 by Ord. No. 408]

PERMIT, BUILDING — A certificate issued by the Construction Code Official for the construction, reconstruction, remodeling, alteration or repair of a building upon approval of the submitted application and plans. [Amended 7-13-1999 by Ord. No. 408]

PERMIT, CERTIFICATE OF USE AND OCCUPANCY — A certificate issued by the Construction Code Official upon completion of the construction of a new building or addition or upon a change in the occupancy of a building (other than a dwelling unit as defined in this chapter) which certifies that all requirements of this chapter or such adjustment therefrom which has been granted by the Planning Board have been met and that the purpose for which a building or land is to be used is in conformance with the uses permitted and all other requirements under this chapter for the zone in which it is located. [Amended 7-13-1999 by Ord. No. 408]

PLANNING BOARD — The Planning Board of the Borough of Teterboro.

PLAT — The map or maps of a subdivision or site plan.

PRELIMINARY APPROVAL — Rights conferred pursuant to this chapter prior to final approval after specific elements of a development plan have been agreed upon by the Planning Board and applicant.

PRELIMINARY PLAT — The preliminary map indicating the proposed layout of the subdivision which is submitted to the Secretary of the Planning Board for its consideration and tentative approval and meeting the requirements of § 165-10C.

SITE PLAN — A development plan of one or more lots on which is shown the existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, floodplains, marshes and waterways; 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 and screening devices; and any other information required by this chapter that may be reasonably required in order to make an informed determination pursuant to this chapter.

STREET — 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 duly filed and recorded in the office of the county recording officer prior to the appointment of a Planning Board and the grant to such Board of the power to review plats, 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. For the purpose of this chapter, streets shall be classified as follows:

- A. Arterial streets are those which are used primarily for fast or heavy traffic.
- B. Collector streets are those which carry traffic from minor streets to the major system of arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development.
- C. Minor streets are those which are used primarily for access to the abutting properties.
- D. Marginal access streets are streets which are parallel with and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.

- E. Alleys are minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

SUBDIVIDER — Any individual, firm, association, syndicate, copartnership, corporation, trust or any other legal entity commencing proceedings under this chapter to effect a subdivision of land hereunder to himself or herself or for another.

SUBDIVISION —

- A. 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 Chair to be for agricultural purposes where all resulting parcels are five acres or larger in size.
- (2) Divisions of property by testamentary or intestate provisions.
- (3) Divisions of property upon court order, including but not limited to judgments of foreclosure. **[Amended 7-13-1999 by Ord. No. 408]**
- (4) Consolidation of existing lots by deed or other recorded instrument. **[Added 7-13-1999 by Ord. No. 408]**
- (5) The conveyance of one or more adjoining lots, tracts or parcels of land, owned by the same person or persons, and all of which are found and certified by the administrative officer to conform to the requirements of this chapter and are shown and designated as separate lots, tracts or parcels on the Tax Map or Atlas of the Borough. **[Added 7-13-1999 by Ord. No. 408]**

- B. The term "subdivision" shall also include the term "resubdivision."

§ 165-6. Rules, regulations and standards as minimal; variances permissible.

The rules, regulations and standards contained in this chapter shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the Borough. Any action taken by the Planning Board under the terms of this chapter shall be given primary consideration to the above-mentioned matters and to the welfare of the entire community. However, if the subdivider or site plan applicant or his or her agent can clearly demonstrate that, because of peculiar conditions pertaining to his or her land, the literal enforcement of one or more of these regulations is impracticable or will exact undue hardship, the Planning Board may permit such variance or variances as may be reasonable and within the general purpose and intent of the rules, regulations and standards established by this chapter.

§ 165-7. Approval required prior to sale of land.

No person shall sell or agree to sell any land which forms part of a subdivision as defined in this chapter until final approval of such subdivision has been obtained pursuant to this chapter.

§ 165-8. Site plan approval; when required.

- A. No building permit shall be issued for a new building unless a site plan shall have first been approved by the Planning Board in accordance with the terms of this chapter.
- B. No building permit shall be issued for an addition to an existing building unless a site plan shall have first been

approved by the Planning Board in accordance with the terms of this chapter.

- C. No certificate of occupancy shall be issued for any new building, for any addition to an existing building or for any change in use, ownership or occupancy of a building if, under Chapter 185, Zoning, a greater number of parking spaces would be required for such new use or occupancy, unless the building and its appurtenances conform in all respects to an approved site plan or an approved amendment to an approved site plan.
- D. Notwithstanding the provisions of Subsections A, B and C, no site plan approval shall be required prior to the issuance of a building permit for any new building or addition to an existing building or prior to the issuance of a certificate of occupancy for any building or addition if such building or addition is used or to be used solely as a single- or two-family dwelling or as an accessory thereto.

§ 165-9. Minor subdivision procedures and plat details.

For a minor subdivision, the procedure shall be as follows:

- A. An application shall be submitted to the proper administrative officer, in writing, in duplicate, on forms supplied by the Planning Board, furnishing pertinent data, such as names and addresses of owner, agent, engineer and identification of property involved.
- B. An application shall be accompanied by 10 copies of a plan of the proposed subdivision accurately drawn to a scale of not less than one inch equals 100 feet, certified by a licensed land surveyor. All design shall be done by a licensed professional engineer. The plan shall be of a size acceptable to the County Clerk for filing and shall indicate:
 - (1) The location of the lots to be created in relation to the entire tract.

- (2) All existing structures and wooded areas within the subdivision and within 200 feet thereof.
 - (3) The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records.
 - (4) The Tax Map sheet, block and lot numbers.
 - (5) All streets and streams within 500 feet of the subdivision. Both the width of paving and the width of rights-of-way shall be shown for streets.
 - (6) The area in square feet of all lots to be created.
 - (7) A key map showing the entire subdivision and its relation to surrounding areas.
 - (8) Easements, covenants, streets, buildings, watercourses, railroads, bridges, culverts, drainpipes, rights-of-way and drainage easements.
 - (9) Any variance or variances required.
 - (10) Acreage of the entire parcel to be subdivided.
 - (11) Date, North arrow and scale.
 - (12) If regrading of the site other than in the foundation area of any proposed buildings or within 10 feet is to be done, a map showing existing and proposed contours at contour intervals of two feet may also be required to be submitted before the plat is classified.
- C. The Planning Board shall require receipt of an application 10 days prior to the meeting at which action is to be taken on such application.
- D. Upon receipt of a completed application, the Board shall, within the time periods prescribed by this chapter, approve or conditionally approve the subdivision without the necessity of full notice and hearing, classify the subdivision as a major subdivision or disapprove the subdivision. The

Board may, in addition to any other conditions which the Board may deem necessary in order to carry out the purposes of this chapter, require as a condition for minor subdivision approval that the applicant install such improvements required by § 165-12 as the Board, in accordance with law, shall deem necessary. Such improvements shall be in accordance with the standards set forth in § 165-13, and performance guaranties may be required in accordance with § 165-15.

- E. Before the administrative officer returns any approved minor subdivision plat to the subdivider, sufficient copies shall be sent to:
- (1) The Borough Clerk.
 - (2) The Borough Engineer.
 - (3) The Building Inspector.
 - (4) The Tax Assessor.

§ 165-10. Preliminary approval.

- A. Site plan and major subdivision procedure; preliminary approval. For preliminary approval of a major subdivision or site plan, the procedure shall be as follows:
- (1) An application shall be submitted to the proper administrative officer, in writing, in duplicate, on forms supplied by the Planning Board, furnishing pertinent data, such as names and addresses of owner, agent, engineer and identification of property involved.
 - (2) The application shall be accompanied by 10 copies of a preliminary plat of the proposed subdivision or of the site plan, accurate and to scale as to boundaries, existing features and proposed features. The accuracy of the boundaries and existing features shall be certified by a licensed land surveyor. All

design shall be done by a licensed professional engineer. The details of the plat shall be in conformity with Subsection B.

- (3) Copies of plat.
 - (a) Simultaneously with filing the application, copies of the preliminary plat shall be forwarded by the applicant to the following persons:
 - [1] The Borough Engineer.
 - [2] The Chief of Police.
 - [3] The Department of Public Works.
 - [4] The Fire Prevention Bureau.
 - [5] The Construction Code Official.
 - (b) The applicant shall produce proof by affidavit of the date such copies were sent. Said persons and Board may make recommendations, in writing, to the Board within 30 days after service of the preliminary plat on them. The Board shall take said recommendation into account but shall have the authority to proceed in the absence of such recommendation or to disregard or modify such recommendations. Copies of all recommendations shall be sent to the applicant by the recommending professionals and boards.
 - (4) Upon receipt of a completed application, the Planning Board shall schedule a public hearing. The applicant shall thereupon give notice of such hearing in accordance with the requirements of any ordinance and of law.
- B. Site plan and major subdivision plat details; preliminary approval.

- (1) The preliminary plat of a site plan or subdivision shall contain the following:
 - (a) Date; all revisions shall be noted and dated.
 - (b) Key map showing the location of the tract with reference to surrounding properties and existing street intersections.
 - (c) Title of development, North arrow, scale, block and lot number, name and address of record owner, name and address, license number and seal of person preparing the plat. If the owner of the premises is a corporation, the name and address of the President and Secretary shall be submitted with the application.
 - (d) A scale of not less than one inch equals 100 feet. All distances shall be in feet and decimals of a foot, and all bearings shall be given to the nearest 10 seconds.
 - (e) The names, as shown on the current tax records, of all owners of the property within 200 feet of the subdivision, together with the block and lot numbers of said property.
 - (f) The zoning district in which the parcel is located, together with zone boundaries included within the boundaries of the parcel or within 200 feet therefrom.
 - (g) Survey data showing boundaries of the property, building or setback lines, and lines of existing and proposed streets, lots, reservations, easements and areas dedicated to public use, including grants, restrictions and rights-of-way.
 - (h) Reference to any existing or proposed covenants, deed restrictions or exceptions covering all or any part of the parcel. A copy of

such covenants, deed restrictions or exceptions shall be submitted with the application.

- (i) The distances, measured along the right-of-way lines of existing streets abutting the property, to the nearest intersections with other public streets.
- (j) Location of existing buildings and all other structures, including walls, fences, culverts and bridges, with spot elevations of such buildings and structures. Structures to be removed shall be indicated by dashed lines; structures to remain shall be indicated by solid lines.
- (k) Location of all existing and proposed storm drainage structures and utility lines, whether publicly or privately owned, with pipe sizes, grades and direction of flow, locations of inlets, manholes or other appurtenances and appropriate invert and other elevations. If any existing utility lines are underground, the estimate location of said utility line shall be shown.
- (l) Existing and proposed contours, referred to United States Coast and Geodetic datum, with a contour interval of one foot for slopes of less than 10% and an interval of two feet for slopes of more than 10%. Existing contours are to be indicated by dashed lines, and proposed contours are to be indicated by solid lines.
- (m) Location of existing rock outcrops, high points, watercourses, depressions, ponds, marshes, wooded areas and other significant existing features, including previous flood elevations of watercourses, ponds and marsh areas as determined by survey.

- (n) All proposed streets with profiles indicating grading and cross sections showing width of roadway, location and width of curb, if any, and location and size of utility lines conforming to the standards and specifications of the Borough.
- (o) The location of all existing and proposed water lines, valves and hydrants and all sewer lines or alternative means of water supply or sewage disposal and treatment.
- (p) Existing and proposed stormwater drainage system. All site plans and major subdivisions shall be accompanied by a plan sketch showing all existing drainage within 500 feet of any boundary, and all areas such as paved areas, grassed areas, wooded areas and any other surface area contributing to the calculations, and showing methods used in the drainage calculations.
- (q) Acreage to the nearest tenth of an acre of tract to be subdivided and the area, in square feet, of all lots.
- (r) Positions of existing and proposed monuments.
- (s) Open spaces, if any, to be dedicated for public parks or playgrounds or other public use and the location and use of all property reserved for the common use of all property owners.
- (t) Such other information or data as may be required by the Planning Board or the County Planning Board for determination that the details of the subdivision are in accordance with the standards of this chapter and all other ordinances of the Borough and all other applicable laws, ordinances or resolutions.

- (2) In addition to the requirements of Subsection B(1), the preliminary plat of a site plan shall contain the following:
- (a) The proposed use or uses of land and buildings, together with the floor space of all buildings and the estimated number of employees. If the precise use of the building is unknown at the time of application, an amended plan showing the proposed use shall be required prior to issuance of a certificate of occupancy.
 - (b) The means of vehicular access for ingress to and egress from the site, showing in particular the size and location of driveways and curb cuts; walkways; the proposed traffic channels, if any; additional width, if any; and any other means of controlling vehicular and pedestrian traffic.
 - (c) The location and design of any off-street parking areas or loading areas, showing size and location of bays, aisles and barriers.
 - (d) The location, direction of illumination, power and hours of operation of existing and proposed outdoor lighting.
 - (e) The location and elevation plan of existing and proposed signs.
 - (f) The location and dimensions of proposed buffer area.
 - (g) The proposed screening, landscaping and planting plan.
- C. Effect of preliminary approval. Preliminary approval of a major subdivision or of a site plan shall, except as provided in Subsection C(4), confer upon the applicant the following rights for a three-year period from the date on which the

resolution of preliminary approval is adopted: [Amended 7-13-1999 by Ord. No. 408]

- (1) That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to use requirements; layout and design standards for streets, curbs and sidewalks; lot size, yard dimensions and off-tract improvements; and in the case of a site plan, any requirements for preservation of existing natural resources, for safe and efficient vehicular and pedestrian circulation, parking and loading, for screening, landscaping and location of structures and for exterior lighting, except that nothing herein shall be construed to prevent the municipality from modifying by ordinance such general terms and conditions of preliminary approval as relate to public health and safety.
- (2) That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary subdivision plat or site plan, as the case may be.
- (3) That the applicant may apply for and the Planning Board may grant extensions on such preliminary approval for additional periods of at least one year, but not to exceed a total extension of two years, provided that if the design standards have been revised by ordinance, such revised standards may govern.
- (4) In the case of a subdivision or of site plan for an area of 50 acres or more, the Planning Board may grant the rights referred to in Subsections C(1) through (3) above for such period of time longer than three years as shall be determined by the Planning Board to be reasonable, taking into consideration the number of dwelling units and nonresidential floor area permissible under preliminary approval, economic considerations and the comprehensiveness of the

development. The applicant may apply for thereafter and the Planning Board may thereafter grant an extension to preliminary approval for such additional period of time as shall be determined by the Planning Board to be reasonable, taking into consideration the number of dwelling units and nonresidential floor area permissible under preliminary approval, the potential number of dwelling units and nonresidential floor area of the section or sections awaiting final approval, economic conditions and the comprehensiveness of the development, provided that if the design standards have been revised, such revised standards may govern.

- (5) Whenever the Planning Board grants an extension of preliminary approval pursuant to Subsection C(3) or (4) of this section and preliminary approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date. **[Added 7-13-1999 by Ord. No. 408]**
- (6) The Planning Board shall grant an extension of preliminary approval for a period determined by the Board, but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently pursued the required approvals. A developer shall apply for the extension before what would otherwise be the expiration of preliminary approval or the 91st day after the developer receives the last legally required approval from other governmental entities,

whichever occurs later. An extension granted pursuant to this subsection shall not preclude the Planning Board from granting an extension pursuant to Subsection C(3) or (4). [Added 7-13-1999 by Ord. No. 408]

§ 165-11. Final approval.

- A. Site plan and major subdivision procedure; final approval. For final approval of a major subdivision or site plan, the procedure shall be as follows:
- (1) The plat of a subdivision and an application for final approval, in duplicate and in a form approved by the Board, shall be submitted to the proper administrative officer, together with the fee required by ordinance.
 - (2) The original cloth tracing and five white prints (blue or black on white) of the plat of a subdivision shall accompany the application. No final plat shall be required for a site plan.
 - (3) The plat of a subdivision shall not differ substantially from the preliminary plat as approved.
 - (4) The final plat of a subdivision shall be drawn in ink on tracing cloth at a scale of not less than one inch equals 100 feet and in compliance with all the provisions of the Map Filing Law¹ and with the plat details contained in Subsection B.
 - (5) The administrative officer shall make a record of the date of submission of the final plat and application to him or her and shall forthwith transmit the final plat and application to the Planning Board.
 - (6) Prior to final approval, the Board, upon the advice of the Borough Engineer, shall determine:

1. Editor's Note: See N.J.S.A. 46:23-9.9 et seq.

- (a) The nature of the improvements to be required as a condition of final approval.
 - (b) The estimated value of the improvements installed or to be installed in accordance with this chapter.
 - (c) The nature and amount of performance guaranties, if any, to be required as a condition to final approval.
 - (d) The amounts to be deposited to reimburse the Planning Board and Borough for costs incurred or to be incurred for legal, engineering and other consultant reports, for recording fees and for any other costs anticipated by the Board.
 - (e) Any other conditions upon which final approval will be granted.
- (7) Prior to final approval, the applicant shall submit to the Board:
- (a) A developer's agreement, prepared by the Board Attorney, setting forth the obligations of the applicant in connection with the final approval.
 - (b) A performance guaranty, in a form satisfactory to the Board and Borough, complying with this chapter and guaranteeing performance of the developer's agreement.
 - (c) Maintenance guaranties, if any, for work completed prior to final approval.
 - (d) Deeds for any easements, rights-of-way or public lands, in a form satisfactory to the Board Attorney.
 - (e) Funds to be deposited to reimburse the Board for costs incurred or to be incurred for legal,

engineering and other consultant reports, for recording fees and for any other costs anticipated by the Board.

- (f) Evidence of compliance with any other conditions imposed by the Board.
- (8) Within 45 days after submission of a complete application to the proper administrative officer or within such further time as may be agreed to by the applicant, but in no event less than the thirty-day reporting period within which the County Planning Board may act, the Planning Board shall approve, conditionally approve or disapprove the final plat and report said action, whether it be approval, conditional approval or disapproval, to the governing body. In case of approval, the final plan shall be so certified. The applicant shall be notified of the Board's action and the reasons therefor.
- (9) Upon final approval by the Planning Board and after all required signatures are placed on the original tracing, the administrative officer shall request the applicant's engineer to have one cloth print and one Mylar reproducible and 10 copies made of such final plat and file a copy thereof with each of the following:
 - (a) Secretary of the Board.
 - (b) Engineer of the Board.
 - (c) Construction Code Official.
 - (d) Tax Assessor.
 - (e) Borough Clerk.
 - (f) Board of Health.
 - (g) Superintendent of Public Works.

B. Site plan and major subdivision plat details; final approval. The final plat of a subdivision shall contain the following:

- (1) Date, name and location of the subdivision, name of owner, graphic scale and reference meridian.
- (2) Tract boundary lines, right-of-way lines of streets, street names, easements and other rights-of-way, land to be reserved or dedicated to public use, all lot lines and other site lines, with accurate dimensions, bearings or deflection angles and radii, arcs and central angles of all curbs and area of each lot.
- (3) The names, exact locations and widths of all existing and recorded streets intersecting or paralleling the plat boundaries within a distance of 200 feet.
- (4) The purpose of any easement or land reserved or dedicated to public use shall be designated, and the proposed use of site, other than residential, shall be noted.
- (5) Lot, block and street numbers as approved by the Borough Engineer, including lot and block numbers of abutting property.
- (6) Minimum building setback line on all lots and other sites.
- (7) Location and description of all monuments.
- (8) Names of owners of adjoining unsubdivided land.
- (9) Certification by surveyor as to accuracy of details of plat.
- (10) Certification that the applicant is agent or owner or that the owner has given consent under an option agreement.

- (11) When approval of a plat is required by any other officer or body of a municipality, county or state, such approval shall be certified on the plat or evidence shall be submitted that an application has been made for such approval.
 - (12) Proposed final grades of all streets shall be shown to a scale of one inch equals five feet vertical and one inch equals 50 feet horizontal on sheets 22 inches by 36 inches, and drawings shall include both plans and profiles and shall show elevations of all monuments referred to United States Coast and Geodetic Survey level benchmarks, and such elevations shall be shown in feet and hundredths of feet.
 - (13) Plans and profiles of storm and sanitary sewers and water mains.
 - (14) Certificate from Tax Collector that all taxes are paid to date.
 - (15) Written proof that the land set aside or shown for easement, public use or streets are free and clear of all liens and encumbrances.
- C. Site plan and major subdivision; as-built plans. After installation of the improvements required by this chapter, the subdivider or applicant for site plan approval shall cause to be prepared, signed and sealed by a licensed professional engineer or land surveyor:
- (1) Plans showing:
 - (a) The contours (at two-foot intervals for lands having slopes averaging 10% or greater and at one-foot intervals for lands of lesser average slopes) of the land as finally graded; and
 - (b) The location, as built, of all improvements required by this chapter, including, without intending to limit the generality hereof, the location of water mains, gas mains and

underground supply lines for light, power and telephone service, and all of their appurtenances.

- (2) Profiles, as built, of streets, storm sewers and sanitary sewers and their respective appurtenances.
- (3) Cross sections, as built, of streets. The plans, profiles and cross sections required by this section are hereinafter referred to as "as-built plans."

§ 165-12. Installation and inspection of improvements.

A. Improvements.

- (1) The subdivider or site plan applicant shall provide for the ultimate installation of the following on-site and off-site improvements:
 - (a) Pavement of streets or portions thereof in accordance with the applicable laws.
 - (b) Approved street signs.
 - (c) Curbs and gutters.
 - (d) Monuments. Monuments shall be of the size and shape required by N.J.S.A. 46:23-9.11 and shall be placed in accordance with said statute.
 - (e) Utilities (including sewage disposal systems, storm drains and culverts, water and gas mains and electrical supply lines for light, power and telephone service), hydrants and connections thereof with approved existing and proposed systems.
 - (f) Shade trees. Shade trees shall be located on the street line so as not to interfere with utilities or sidewalks and shall be of a type approved by the Planning Board.

- (2) The subdivider or site plan applicant shall, at his or her own cost, provide for the ultimate installation of all off-tract water, sewer, drainage and street improvements and easements therefor required by the Planning Board in connection with the subdivision or site plan if such off-tract improvements:
 - (a) Are wholly made necessary by the subdivision or site plan or the improvement therein; and
 - (b) Do not confer material benefits on any land other than the land within the subdivision or site plan.

- (3) The subdivider or site plan applicant shall provide for payment of his or her proportionate share, allocated in accordance with this chapter, of the cost of the ultimate installation of all off-tract water, sewer, drainage and street improvements and easements therefor required by the Planning Board in connection with the subdivision or site plan if such off-tract improvements:
 - (a) Are wholly made necessary by the subdivision or site plan or the improvement therein; and
 - (b) Do not confer material benefits on any land other than the land within the subdivision or site plan.

- (4) The subdivider or site plan applicant shall provide for payment of his or her proportionate share, allocated in accordance with this chapter, of the cost of the ultimate installation of all off-tract water, sewer, drainage and street improvements and easements therefor required by the Planning Board in connection with the subdivision or site plan if such off-tract improvements:

- (a) Are wholly or partially made necessary by the subdivision or site plan or the improvements thereon; and
 - (b) Confer benefit on lands other than those within the subdivision or site plan.
- (5) In addition to the improvements set forth in Subsection A(1) through (4), a site plan applicant shall, upon the conditions delineated by the Planning Board, provide for the ultimate installation, prior to the issuance of a certificate of occupancy, of the following:
- (a) Buffer landscaping and foundation plantings.
 - (b) On-site paved parking areas and all appurtenant curbs, islands, lighting and driveways.
 - (c) Fencing and screening.
 - (d) On-site lighting.
 - (e) On-site pedestrianways.
- (6) All such improvements shall meet the design standards of this chapter.
- B. **Improvements; inspection.** All of the improvements installed by a subdivider or site plan applicant shall be subject to inspection and approval by the Borough Engineer, who shall be notified by the subdivider or site plan applicant at least 24 hours prior to the start of construction. No underground installation shall be covered until so inspected and approved.

§ 165-13. Subdivision design standards.

- A. **Compliance required.** The subdivider shall observe the requirements and principles of land subdivision in the

design of each subdivision or portion thereof as hereinafter set forth in this chapter.

- B. General standards. The subdivision plat shall conform to design standards that will encourage good development patterns within the Borough. Natural features, such as trees, brooks, hilltops and views, shall be preserved whenever possible in designing any subdivision or site plan containing such feature. Where an Official Map or Master Plan, or both, has or have been adopted, the subdivision shall conform to the proposals and conditions shown thereon. The streets, drainageways, school sites, flood-control basins, public parks and playgrounds and other public areas shown on an officially adopted Master Plan or Official Map shall be considered in approval of subdivision plats. Where no Master Plan or Official Map exists, streets and drainageways shall be shown on the final plat in accordance with N.J.S.A. 40:55D-44 and shall be such as to lend themselves to the harmonious development of the Borough and to enhance the public welfare in accordance with the design standards set forth in Subsections C through G inclusive.
- C. Streets.
- (1) The arrangement of streets not shown on the Master Plan or Official Map shall be such as to provide for the appropriate extension of existing streets.
 - (2) Minor streets shall be so designated as to discourage through traffic.
 - (3) Subdivisions abutting arterial streets shall provide a marginal service road or reserve frontage with a buffer strip for planting or some other means of separation of through and local traffic as the Planning Board may determine to be appropriate.
 - (4) Right-of-way widths, measured from street center line to lot line, shall not be less than specified in the Master Plan or Official Map.

- (5) No subdivision that shows reserve strips controlling access to streets shall be approved except where the control and disposal of land comprising such strips has been placed in the Council under conditions approved by the Planning Board.
- (6) Subdivisions adjoining or including existing streets that do not conform to street widths shown on the Master Plan or Official Map or to the street width requirements of this chapter shall be required to dedicate additional width along one or both sides of streets of substandard width. If the subdivision is along one side only, dedication of 1/2 of the required extra width shall be required.
- (7) Grades on all streets shall not exceed 10%. No street shall have a minimum grade of less than 1/2 of 1%.
- (8) Street intersections shall be as nearly at right angles as is possible and in no case shall be less than 70°. The block corners of intersections shall be founded of the curblines with a curve having a radius of not less than 20 feet.
- (9) Street jogs with center-line offsets of less than 125 feet shall be prohibited.
- (10) A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.
- (11) When connecting street lines deflect from each other at any one point by more than 10° and not more than 45°, they shall be connected by a curve with a radius of not less than 100 feet for minor streets and 300 feet for arterial and collector streets.
- (12) All changes in grade shall be connected vertical curves of sufficient radius to provide a smooth transition and proper sight distances.

- (13) Include dead-end streets only when unavoidable. A cul-de-sac shall be no longer than four times the required lot width to create lots of minimum area as specified in Chapter 185, Zoning, for the district in which it is located. On each cul-de-sac a turnaround having an outside radius of at least 50 feet or satisfactory equivalent turning area shall be provided. The provisions of this subsection may be waived by the Planning Board if the subdivider cannot feasibly develop the tract without exceeding the length requirements of dead-end streets under this subsection.
- (14) No street shall have a name which will duplicate or be likely to be confused with the names of existing streets. The continuation of an existing street shall have the same name. Personal or family names shall not be permitted.
- (15) Provisions of half streets, except to complete existing half streets, is prohibited.
- (16) Access by streets shall be provided for all lots in the subdivision and adjacent streets to the limits of the subdivision.

D. Blocks.

- (1) Block length and width or acreage within bounding roads shall be such as to accommodate the size of lot required in the area by Chapter 185, Zoning, and to provide for the convenient access, circulation, control and safety of street traffic.
- (2) In blocks over 1,000 feet long, pedestrian walkways may be required in locations deemed necessary by the Planning Board. Each walkway shall be 10 feet wide and be straight from street to street.

- (3) For commercial, group housing or industrial use, block size shall be sufficient to meet all area and rear yard requirements for such use.

E. Lots.

- (1) Lot dimensions and area shall not be less than the requirements of Chapter 185, Zoning.
- (2) Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
- (3) Each lot must front upon an approved street at least 50 feet in width.
- (4) Where extra width has been dedicated for widening of existing streets, lots shall begin at such extra width line, and all setbacks shall be measured from such line.
- (5) Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as rock formations, flood conditions, inadequate soil-bearing capacity, high water table, relative impermeability of soil which may result in unsatisfactory sewage disposal or similar circumstances, the Planning Board may, after adequate investigation, withhold approval of such lots.

F. Public use and service areas.

- (1) Easements along property lines or elsewhere for utility installation may be required. Such easements shall be at least 20 feet wide and shall be located in consultation with the companies or Borough departments concerned.
- (2) Where a subdivision is traversed by a watercourse, drainageway channel or stream, there shall be provided a stormwater easement or drainage

right-of-way conforming substantially with the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose.

- (3) Natural features, such as trees, brooks, hilltops and views, shall be preserved whenever possible in designing any subdivision containing such features.

G. Utilities design standards, inspections and approvals.

- (1) All storm drains and culverts and all sewage disposal systems and installations, both individual and public, shall meet the standards prescribed by and be approved by the Borough, county and state health and engineering authorities having jurisdiction thereof.
- (2) All utilities and installations connected with systems maintained and controlled by privately owned public utilities shall meet the standards for underground installation prescribed by, and be approved by, said public utilities and by the Borough Engineer.

§ 165-14. Site plan design standards.

- A. In reviewing site plans, the Planning Board and all advisory boards and professional advisers shall be guided by the standards set forth in this section and in § 165-13 when applicable.
- B. Access. There shall be adequate provision for ingress and egress to all parking spaces. Access drives or driveways shall be no less than 12 feet for ingress and egress and 24 feet wide for both ingress and egress. No driveway or access drive shall be closer than 50 feet to the street lot lines of any two intersecting streets.
- C. Buffer strips. The site plan shall indicate buffer strips and planting strips as required by this chapter. In the event that the Planning Board shall determine that additional

buffer strips or planting strips are required to protect public areas or neighboring properties from adverse effects of the proposed building or addition, the Board may require such additional buffer or planting strips. The Planning Board shall recommend and approve landscaping and foundation planting which will ensure the attractiveness of premises subject to this chapter and the protection of soil thereon.

D. Circulation.

- (1) Provision shall be made for the safe and adequate circulation of pedestrians and vehicles within the property. Parking areas and all aisles and driveways should be in accordance with the requirements of the Transportation and Traffic Engineering Hand Book published by the Institute of Traffic Engineers, 1976 Edition, or any subsequent editions [Amended 7-13-1999 by Ord. No. 408]

| Parking Angle | Aisle or Driveway Width (feet) |
|----------------------------------|---|
| 0 degrees -- Parallel parking | 12 |
| 30 degrees | 12 |
| 45 degrees | 13 |
| 60 degrees | 18 |
| 90 degrees | 25 |

- (2) Only one-way traffic shall be permitted in aisles or driveways providing direct access to parking spaces placed at an angle other than 90°.

E. Drainage provision shall be made for the safe and adequate drainage of the surface runoff waters in and from the premises so that flooding and erosion of the property and the property of others will be prevented. Unless

otherwise provided by the Planning Board, drainage facilities shall be in accordance with the rules and regulations of the State of New Jersey Department of Environmental Protection, Chapter 232, Laws of 1975, commonly known as the "90 Day Construction Act," which requires as a basis for design the one-hundred-year storm frequency.

- F. Fencing and screening. Provision shall be made for the protective and covering fencing and screening of such portions of the property as the Planning Board may deem necessary for the safety and welfare of those persons most likely to be exposed to the property.
- G. Garbage and refuse. Provision shall be made for the indoor or enclosed storage of garbage and refuse.
- H. Illumination. The lighting of the building, the property and all signs on the property shall be such as not to produce any glare of the exterior lot lines of the premises. The traffic circulation patterns shall be such as to eliminate, at the exterior lot lines, glare from the lights of automobiles on the property.
- I. Loading spaces. There shall be provided on the same lot with the building for which it is to be used loading berths in accordance with the provisions of Chapter 185, Zoning. Each loading space shall be at least 12 feet wide, 35 feet long and 14 feet high and shall as nearly as may be practicable be located in such a position as to cause the least hindrance to internal circulation of traffic and the least noise and aesthetic disturbance to the public and neighboring property owners. No loading space shall be located in a position in which any vehicle using the space will block the free passage of pedestrians or vehicles on the streets.
- J. Noise, vibrations, odor and pollution. Provisions shall be made for the elimination of all offensive noise, vibration or other pollution to the general public emanating from the use of the property.

K. Parking.

- (1) The Planning Board shall approve the most appropriate locations on the site for the proposed parking area, in view of the size and topography of the property considerations of safety and aesthetics, the requirement of adequate buffer and the elimination of glare, dust and noise caused by traffic. There shall be provided for each building subject to this chapter the number of off-street parking spaces in accordance with the provisions of Chapter 185, Zoning.
- (2) Each off-street parking space shall have an area of at least 200 square feet exclusive of access drives or aisles, shall be at least 10 feet wide and 20 feet long and shall be surfaced so as to be usable for parking. If off-site off-street parking is contemplated, the Board, in addition, shall determine what provisions, if any, are required for the safe and adequate circulation of pedestrians between the parking area and the property.
- (3) All parking areas and appurtenant maneuvering areas, passageways and driveways serving semipublic office research, commercial and industrial uses shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation. Adequate shielding shall be provided by all such users to protect adjacent residential districts from the glare of such illumination and from glare of automobile headlights produced by automobiles entering and leaving the area.
- (4) Off-street parking areas shall be effectively screened on any side which adjoins or faces premises situated in any residential district or institutional premises by a solid, uniformly painted fence or wall not less than four or more than six feet in height maintained in good condition; provided, however, that where the adjacent owners agree, in writing, a screening hedge

or natural landscaping may be substituted for the required fence or wall.

- (5) Parking areas may be located in any yard space, but shall not be closer than 10 feet to any street line.
 - (6) Off-street parking areas located in commercial districts which provide parking for 20 or more vehicles shall be provided with shade trees of a type approved by the Planning Board. The shade trees shall be located in a planned manner within the parking lot area as recommended by the Planning Board. There shall be not less than one shade tree for every 30 parking spaces.
- L. Paving and curbs. Paving, when required, shall be dustless, durable, all-weather pavement and shall be adequate in size and location to direct surface water runoff away from neighboring properties and toward approved drainage systems.
 - M. Retaining walls. Retaining walls shall be designed to be safe and adequate for the purpose intended.
 - N. Sewage disposal. Provision shall be made in accordance with applicable regulations of all boards and bodies with jurisdiction over the collection and disposal of sewage.
 - O. Sidewalks. Sidewalks shall be provided where needed to protect the safety of pedestrians.
 - P. Storage. Outside storage, when permitted, shall only be permitted in areas approved by the Board. Such areas shall, as nearly as may be practicable, be shielded from public view and protected by adequate fencing or screening.
 - Q. Facilities for the collection of recyclables. Commercial and industrial buildings of 1,000 square feet or more shall incorporate facilities for the placement of containers of recyclables as specified under state and county requirements so as to permit the appropriate storage and

removal of containers of recyclable materials. [Added 5-9-1989 by Ord. No. 289]

§ 165-15. Performance guaranties.

A. Performance guaranty: form; approval terms; reduction of amount.

- (1) No final plat or final site plan shall be approved by the Planning Board until the subdivider or site plan applicant shall:
 - (a) Have filed with the Borough Clerk a performance guaranty in an amount estimated by the Borough Engineer to be sufficient to cover 120% of all required improvements listed in § 165-12A(1) and (2) and assuring the installation of all such improvements on or before an agreed date; and
 - (b) Have deposited with the Borough Treasurer a sum determined by the Borough Engineer and Planning Board to be equal to the subdivider's proportionate share, determined in accordance with § 165-16, of the cost of all off-tract improvements required in accordance with § 165-12A(3).
- (2) The performance guaranty shall be in the Borough's prescribed form of performance bond on which the subdivider shall be principal and secured either by a bonding or surety company approved by the Council or by a certified bank or cashier's check, the proceeds of which shall be returnable to the subdivider without interest after full compliance by the subdivider with all of the requirements of this chapter and the developer's agreement.
- (3) The performance guaranty shall be approved by the Borough Attorney as to form, sufficiency and

execution. Such performance guaranty shall run for a period to be fixed by the Planning Board, but in no case for a term of more than three years. However, with the consent of the owner and of the surety, if there be one, the Council may, by resolution, extend the term of such performance guaranty for an additional period or periods, but the extensions shall not exceed in the aggregate three years. The amount of the performance guaranty may be reduced by the Council by resolution when portions of the required improvements have been installed.

B. Procedure on completion of improvement; liability for breach of performance guaranty; performance by Borough.
[Amended 7-13-1999 by Ord. No. 408]

- (1) The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer pursuant to N.J.S.A. 40:55D-49, whether conditionally or otherwise, shall not be changed for a period of two years after the date on which the resolution of final approval is adopted, provided that in the case of a major subdivision, the rights conferred by this section shall expire if the plat has not been duly recorded within the time period provided in N.J.S.A. 40:55D-54. If the developer has followed the standards prescribed for final approval and, in the case of a subdivision, has duly recorded the plat as required in N.J.S.A. 40:55D-54, the Planning Board may extend such period of protection for extensions of one year, but not to exceed three extensions. Notwithstanding any other provisions of this chapter, the granting of final approval terminates the time period of preliminary approval pursuant to N.J.S.A. 40:55D-49 for the section granted final approval.
- (2) In the case of a subdivision or site plan for a planned development of 50 acres or more, conventional

subdivision or site plan for 150 acres or more or site plan for development of a nonresidential floor area of 200,000 square feet or more, the Planning Board may grant the rights referred to in Subsection B(1) for such period of time, longer than two years, as shall be determined by the Planning Board to be reasonable, taking into consideration the number of dwelling units and nonresidential floor area permissible under final approval, economic conditions and the comprehensiveness of the development. The developer may apply for thereafter, and the Planning Board may thereafter grant, an extension of final approval for such additional period of time as shall be determined by the Planning Board to be reasonable, taking into consideration the number of dwelling units and nonresidential floor area permissible under final approval, the number of dwelling units and nonresidential floor area remaining to be developed, the economic conditions and the comprehensiveness of the development.

- (3) Whenever the Planning Board grants an extension of final approval pursuant to Subsection B(1) or (2) and final approval has expired before the date on which the extension is granted, the extension shall begin on what would otherwise be the expiration date. The developer may apply for the extension either before or after what would otherwise be the expiration date.
- (4) The Planning Board shall grant an extension of final approval for a period determined by the Board, but not exceeding one year from what would otherwise be the expiration date, if the developer proves to the reasonable satisfaction of the Board that the developer was barred or prevented, directly or indirectly, from proceeding with the development because of delays in obtaining legally required approvals from other governmental entities and that the developer applied promptly for and diligently

pursued these approvals. A developer shall apply for the extension before what would otherwise be the expiration date of final approval or the 91st day after the developer receives the last legally required approval from other governmental entities, whichever occurs later. An extension granted pursuant to this subsection shall not preclude the Planning Board from granting an extension pursuant to Subsection B(1) or (2) of this section.

C. Discharge of principal and surety on performance guaranty on completion; maintenance guaranty bond.

- (1) Upon certification by the Borough Engineer that the improvements have been installed and completed in accordance with the performance guaranty, and upon tender by the owner of a proper maintenance guaranty bond, the Borough Council shall, by resolution, accept said improvements and discharge the principal and surety from all liability arising out of the performance guaranty.
- (2) Said maintenance guaranty bond shall be subject to the approval of the Borough Attorney as to form, sufficiency and execution; shall be in such amount as the Borough Engineer shall prescribe but not to exceed 15% of the cost of the improvements or of the original installation; and shall be conditioned upon the maintenance of all of said improvements in good condition and repair for a period of two years next following the date of adoption of the aforesaid resolution of acceptance.

§ 165-16. Off-tract improvements.

- A. Procedure for determination and allocation of costs. In the event that the Planning Board shall determine that off-tract improvements are required in connection with any subdivision or site plan, then prior to granting final approval:

- (1) The Planning Board shall report to the Borough Council:
 - (a) The location, character and extent of the required off-tract improvements.
 - (b) The Borough Engineer's estimate of the total cost of such off-tract improvements.
 - (c) The proposed allocation of said total cost determined in accordance with the standards set forth in Subsection B.
- (2) The Borough Council shall determine and report to the Planning Board whether the off-tract improvement will be constructed:
 - (a) By the Borough as a general improvement, as a local improvement or as a combination thereof; or
 - (b) By the subdivider or site plan applicant with a formula specified by the Borough Council providing for partial reimbursement if the improvement specially benefits property other than that within the subdivision or site plan.
- (3) The Planning Board shall require, as a condition for approval of the final plan or site plan, that:
 - (a) If the improvement is to be constructed by the Borough as a general improvement, the subdivider or site plan applicant shall deposit with the Borough Treasurer an amount equal to the difference, if any, between the estimated cost of the improvement and the estimated total amount by which all properties, including the subdivision or site plan to be serviced by the improvement, will be specially benefited by the improvement;

- (b) If the improvement is to be constructed by the Borough as a local improvement, the subdivider or site plan applicant shall deposit with the Borough Treasurer, in addition to the amount specified in Subsection A(3)(a), the estimated amount by which the subdivision or site plan will be specially benefited by the improvement; or
- (c) If the improvement is to be constructed by the subdivider or site plan applicant, the subdivider or site plan applicant shall file with the Borough Clerk a performance guaranty meeting the requirements of § 165-15A in the full estimated cost of the improvement.

B. Standards for allocating cost.

- (1) In determining the allocation of costs for off-tract improvements as between the subdivider or site plan applicant, other property owners and the Borough, the Planning Board shall be guided by the following factors:
 - (a) The total estimated cost of the off-tract improvement.
 - (b) The increase in market values of the properties affected and any other benefits conferred.
 - (c) The needs created by the application.
 - (d) Population and land use projections for the land within the general area of the subdivision.
 - (e) The estimated time for construction of the off-tract improvements.
 - (f) The condition and periods of usefulness of the improvements which may be based upon the criteria of N.J.S.A. 40A:2-22.

- (2) Without limiting the generality of the foregoing, the Planning Board may take into account the following specific factors:
- (a) With respect to street, curb, gutter, sidewalk, shade trees, streetlights, street signs and traffic light improvements, the Board may consider:
- [1] Traffic counts.
 - [2] Existing and projected traffic patterns.
 - [3] Quality of roads and sidewalks in the area.
 - [4] Such other factors as it may deem relevant to the need created by the subdivision or site plan.
- (b) With respect to drainage facilities, the Board may consider:
- [1] The relationship between the area of the subdivision or site plan and the area of the total drainage basin of which the subdivision or site plan is a part.
 - [2] The proposed use of land within the subdivision or site plan and the amount of land area to be covered by impervious surfaces on the land within the subdivision or site plan.
 - [3] The use, condition or status of the remaining land area in the drainage basin.
- (c) With respect to water, gas and electric supply and distribution facilities, the Board may consider the use requirements of the use proposed for the subdivision or site plan and

the use requirements of all other properties to be benefited by the improvements.

- (d) With respect to sewerage facilities, the Board may consider:

- [1] The anticipated volume of effluent from the use proposed for the subdivision or site plan and the anticipated volume of effluent from all other properties to be benefited by the improvements.
- [2] The types of effluent anticipated and particular problems requiring special equipment or added costs.

- C. Deposits. Any money received by the Borough Treasurer for off-tract improvements to be constructed or installed by the Borough pursuant to the provisions of this chapter shall be deposited in a suitable depository therefor and shall be used only for the improvements for which they are deposited or improvements satisfying the same purpose. If construction of improvements for which the Borough is responsible has not commenced within five years from the date of deposit, the amount deposited with any income thereon shall be returned to the subdivider or site plan applicant or his or her successor in interest.
- D. Actual costs. Upon completion of any improvement constructed by the municipality as a general or local improvement, the total cost of such improvement shall be determined by the Borough Treasurer. The difference between the actual cost as so determined and the estimated cost shall be computed. The subdivider or site plan applicant or his or her successor in interest shall make remittance to the Borough if the actual cost as so determined and the estimated cost shall be computed. The subdivider or site plan applicant or his or her successor in interest shall make remittance to the Borough if the actual cost exceeds the estimated cost or shall receive a refund from the funds deposited with the Borough if the estimated

cost exceeds the actual cost, in an amount which bears the same relationship to the difference between the actual and estimated costs as the amount deposited by the subdivider or site plan applicant for his or her proportionate share of the estimated cost bears to the total estimated cost. Any sum payable by the subdivider or site plan applicant or his or her successor in interest may be levied and collected by the Borough in the same manner as is provided by law for the levy and collection of real estate taxes.

§ 165-17. Successors in interest.

In the absence of an express provision in a deed or deeds of conveyance, it shall be presumed that the free owners of all lots in the subdivision or site plan at the date any deposit or portion thereof is returned or additional charge is made pursuant to § 165-16C and D are the lawful successors in interest to the subdivider or site plan applicant and that each such fee owner shall be charged with or entitled to receive a pro rata share, based on lot area, of any funds to be returned or additional charge to be made pursuant to this section. Upon payment of any such sums to said fee owners, the Borough shall be released of liability to any other person.

§ 165-18. Continuance of existing applications.

All applications for subdivision and site plan review filed prior to the effective date of this chapter may be continued.

§ 165-19. Fees and escrow deposit; payments to professionals; procedures. [Amended 5-13-2003 by Ord. No. 453]

- A. Application for the rendering of any service by the Planning Board in its review of applications for development, including applications for variances made to the Planning Board sitting as a Board of Adjustment, are as follows:

- (1) Applications for use variances under N.J.S.A. 40:55D-70(d): \$250.
 - (2) Applications for variances made pursuant to N.J.S.A. 40:55D-70(c), or other types of applications ordinarily made to a Board of Adjustment pursuant to the Municipal Land Use Act, and for variances applied for ancillary to any other application for development: \$150.
 - (3) Fees for minor subdivisions: \$150 (plus \$50 per lot).
 - (4) Fees for major subdivisions:
 - (a) Sketch plat: \$ 50.
 - (b) Preliminary application: \$350 (plus \$50 per lot).
 - (c) Final application: \$150.
 - (5) Fees for site plan: \$150.
 - (a) Minor site plan: \$150.
 - (b) Major site plan (greater than 1/2 acre) \$350.
 - (6) Fees for applications for zoning certificates of occupancy or other permits to the Planning Board: \$100.
- B. Escrow deposits.
- (1) In addition to the fees set forth in Subsection A, the Planning Board shall require initial escrow deposits as follows:
 - (a) Minor subdivision: \$750.
 - (b) Major subdivision:

- [1] Sketch plat: \$250.
 - [2] Preliminary subdivision: \$2,500 (plus \$100 per lot).
 - [3] Final subdivision: \$500 (plus \$100 per lot).
- (c) Minor site plan for less than 1/2 acre: \$1,000.
 - (d) Major site plan for more than 1/2 acre: \$2,500.
 - (e) Deposit for inspection fees: as determined by the Engineer in an amount not to exceed, except for extraordinary circumstances, the greater of \$500 or 5% of the cost of improvements, which cost is determined pursuant to Subsection h of N.J.S.A. 40:55D-53.
- (2) In addition to the initial deposits provided for herein, the applicant shall make a deposit of such additional sums as an escrow for professional fees as may be reasonably required from time to time by the Planning Board during the pendency of the application based upon the fee schedule for its professionals which may then be established by ordinance or by resolution. Said escrow deposit shall be placed in an escrow account with any initial deposit received on the application. The Chief Financial Officer of the municipality shall make all of the payments to professionals for services rendered to the municipality or approving authority for review of applications for development, review and preparation of documents, inspection of improvement or other purposes under the provisions of N.J.S.A. 40:55D-1 et seq. The application review and inspection charges shall be limited only to professional charges for review of applications, review and preparation of documents and inspections of developments under construction and for review by outside consultants when an application is of a nature beyond the scope of the

expertise of the professionals normally utilized by the municipality. The only costs that shall be added to any such charges shall be actual out-of-pocket expenses of such professionals or consultants, including normal and typical expenses incurred in processing applications and inspecting improvements. No applicant shall be charged for any municipal, clerical or administrative functions, overhead expenses, meeting room charges or any of the municipal costs and expenses except as provided for specifically by statute, nor shall a municipal professional add any such charge to his bill.

- C. Scope of reimbursed services. The municipality shall be entitled to be reimbursed for the review of applications, both as to completeness and as to content, for the review and preparation of documents such as, but not limited to, drafting resolutions, developer's agreements and necessary correspondence with applicant or applicant's professionals.
- D. Deposit of escrow funds: refunds. Deposits received from any applicant in excess of \$5,000 shall be held by the Chief Financial Officer in a special interest-hearing deposit account, and upon receipt of bills from professionals and approval of said bills as hereinafter provided for, the Chief Financial Officer may use such funds to pay the bills submitted by such professionals or experts. The municipality shall not be required to refund an amount of interest paid on a deposit which does not exceed \$100 for the year. If the amount of interest exceeds \$100, the entire amount shall belong to the applicant and shall be refunded to him by the municipality annually or at the time the deposit is repaid or applied for the purposes for which it has deposited, as the case may be, except that the municipality will or shall retain for administrative expenses a sum equivalent to no more than 33 1/3% of that entire amount, which shall be in lieu of all other administrative and custodial expenses. All sums not actually so expended shall be refunded to the applicant within 90 days after the final decision by the appropriate

municipal agency with respect to such application, upon certification by the Board Secretary that such application has been finally decided.

E. Payments.

- (1) Each payment charged to the deposit for review of applications, review and preparation of documents and inspection of improvements shall be pursuant to a voucher from the professional, which voucher shall identify the personnel performing the service and each date the services were performed, the hours spent to one-quarter hour increments, the hourly rate and the expenses incurred. All professionals shall submit vouchers to the Chief Financial Officer of the municipality on a monthly basis in accordance with the schedules and procedures established by the Chief Financial Officer. The professional shall send an informational copy of all vouchers or statements submitted to the Chief Financial Officer of the Municipality simultaneously to the applicant and the municipal agency for whom said services were performed.
- (2) The Chief Financial Officer shall prepare and send to the applicant a statement which shall include an accounting of funds listing all deposits, interest earnings, disbursements and the cumulative balance of the escrow account. This information shall be provided on a quarterly basis if monthly charges are \$1,000 or less, or on a monthly basis if monthly charges exceed \$1,000. If an escrow account or deposit contains insufficient funds to enable the municipality or approving authority to perform required application reviews or improvement inspections, the Chief Financial Officer shall provide the applicant with a notice of the insufficient escrow or deposit balance. In order for work to continue on the development or the application, the applicant shall within a reasonable time period post a deposit

to the account in an amount to be agreed upon by the municipality or approving authority and the applicant. In the interim, any required health and safety inspections shall be made and charged back against the replenishment of funds.

F. Payments required prior to issuance of permits. No zoning permits, building permits, certificates of occupancy or any other types of permits may be issued with respect to any approved application for development until all bills for reimbursable services have been received by the municipality from professional personnel rendering services in connection with such application and payment has been made.

G. Closeout procedures.

(1) The following closeout procedures shall apply to all deposits and escrow accounts established under the provisions of N.J.S.A. 40:55D-1 et seq. and shall commence after the approving authority has granted final approval and signed the subdivision plat or site plan, in the case of application review escrows and deposits, or after the improvements have been approved in accordance with N.J.S.A. 40:55D-53, in the case of improvement inspection escrows and deposits.

(2) The applicant shall send written notice by certified mail to the Chief Financial Officer of the Municipality and the approving authority and to the relevant municipal professional that the application or the improvements, as the case may be, are completed. After receipt of such notice, the professional shall render a final bill to the Chief Financial Officer of the municipality within 30 days and shall send a copy simultaneously to the applicant. The Chief Financial Officer of the municipality shall render a written final accounting to the applicant on the uses to which the deposit was put within 45 days of receipt of the final bill. Any

balances remaining in the deposit or escrow account, including interest in accordance with N.J.S.A. 40:55D-53.1 shall be refunded to the developer along with the final accounting.

- H. Scope of charges. All professional charges for review of an application for development, review and preparation of documents or inspection of improvements shall be reasonable and necessary, given the status and progress of the application or construction. Review fees shall be charged only in connection with an application for development presently pending before the approving authority or upon review of compliance with the conditions of approval, or review of requests for modification or amendment made by the applicant. A professional shall not review items which are subject to approval by any State governmental agency and not under municipal jurisdiction except to the extent consultation with a State agency is necessary due to the effect of state approvals on the subdivision or site plan.
- I. Limitation of inspection fees. Inspection fees shall be charged only for actual work shown on a subdivision or site plan or required by an approving resolution. Professionals inspecting improvements under construction shall charge only for inspections that are reasonably necessary to check the progress and quality of the work, and such inspections shall be reasonably based on the approved development plans and documents.
- J. Substitution of professionals. If the municipality retains a different professional or consultant in place of a professional originally responsible for development application review, or inspection of improvements, the municipality or approving authority shall be responsible for all time and expenses of the new professional to become familiar with the application or the project, and the Municipality or approving authority shall not bill the applicant or charge to the deposit or the escrow account for any such services.

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K. Estimate of cost of improvements. The cost of the installation of improvements for the purposes of N.J.S.A. 40:55D-53 shall be estimated by the Municipal Engineer based on documented construction costs for the public improvements prevailing in the general area of the municipality. The developer may appeal the Municipal Engineer's estimate to the County Construction Board of Appeals, established pursuant to N.J.S.A. 52:27D-127.

L. Appeals.

- (1) An applicant shall notify in writing the governing body with copies to the Chief Financial Officer, the approving authority and the professional whenever the applicant disputes the charges made by a professional for a service rendered to the municipality in reviewing applications for development, review and preparation of documents, inspection of improvements or other charges made pursuant to N.J.S.A. 40:55D-53.2. The governing body or its designee shall within a reasonable time attempt to remediate any disputed charges. If the matter is not resolved to the satisfaction of the applicant, the applicant may appeal to the County Construction Board of Appeals, established pursuant to N.J.S.A. 52:27D-127 any charge to an escrow account or deposit by any municipal professional or consultant, or the cost of the installation of improvements estimated by the Municipal Engineer pursuant to N.J.S.A. 40:55D-53.4. An applicant or his authorized agent shall submit the appeal in writing to the County Construction Board of Appeals. The applicant or his authorized agent shall simultaneously send a copy of the appeal to the municipality, approving authority and any professional whose charges are the subject of the appeal. An applicant shall file an appeal within 45 days from receipt of the informational copy of the professional's voucher required by subsection N.J.S.A. 40:55D-53.2c, except that if the professional

has not supplied the applicant with an informational copy of the voucher, then the applicant shall file his appeal within 60 days from receipt of the municipal statement of activity against the deposit or escrow account required by N.J.S.A. 40:55D-53.2c. An applicant may file an appeal for an ongoing series of charges by a professional during a period not exceeding six months to demonstrate that they represent a pattern of excessive or inaccurate charges. An applicant making use of this provision need not appeal each charge individually.

- (2) Appeals shall be taken in accordance with the rules and procedures established by the County Construction Board of Appeals.
- (3) During the pendency of any appeal, the municipality or approving authority shall continue to process, hear and decide the application for development and to inspect the development in the normal course and shall not withhold, delay or deny reviews, inspections, signing of subdivision plats or site plans, the reduction or the release of performance or maintenance guarantees, the issuance of construction permits or certificates of occupancy or any other approval or permit because an appeal has been filed or is pending under this subsection. The Chief Financial Officer of the municipality may pay charges out of the appropriate escrow account or deposit for which an appeal has been filed. If a charge is disallowed after payment, the Chief Financial Officer of the municipality shall reimburse the deposit or escrow account in the amount of any such disallowed charge or refund the amount to the applicant. If a charge is disallowed after payment to a professional or consultant who is not an employee of a municipality, the professional or consultant shall reimburse the municipality in the amount of any such disallowed charge.

**§ 165-19.1. Determination of completeness of application.
[Added 7-11-2000 by Ord. No. 424]**

An application for development shall be complete for purposes of commencing the applicable time period for action by a municipal agency when so certified by the municipal agency or its authorized committee or designee. In the event that the agency, committee or designee does not certify the application to be complete within 45 days of the date of its submission, the application shall be deemed complete upon the expiration of the forty-five-day period for purposes of commencing the applicable time period, unless the application lacks the information indicated on the checklist attached to and made a part of this chapter², a copy of which shall have been provided to the applicant, and the municipal agency or its authorized committee or designee has notified the applicant, in writing, of the deficiencies in the application within 45 days of submission of the application. The applicant may request that one or more of the submission requirements be waived, in which event the agency or its authorized committee shall grant or deny the request within 45 days. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that he is entitled to approval of the application. The municipal agency may subsequently require correction of any information found to be in error and submission of additional information not specified in the chapter or any revisions in the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements necessary for the approval of the application for development have been met. The application shall not be deemed incomplete for lack of any such additional information or any revisions in the accompanying documents so required by the agency.

2. **Editor's Note: The checklist herewith adopted is on file with the Secretary of the Planning Board.**

§ 165-20. Copy to be filed with County Planning Board.

Immediately upon adoption of this chapter, the Borough Clerk shall file a copy of this chapter with the County Planning Board as required by law.

§ 165-21. Development within Hackensack Meadowlands Development District.

Development within the Hackensack Meadowlands Development District shall conform with all applicable regulations of the Hackensack Meadowlands Development Commission promulgated in accordance with N.J.S.A. 13:17-1 et seq.

§ 165-22. Violations and penalties.

- A. If, before final subdivision approval has been granted, any person transfers or sells or agrees to transfer or sell, except pursuant to an agreement expressly conditioned on final subdivision approval, as owner or agent, any land which forms a part of a subdivision for which Borough approval is required by this chapter, such person shall be subject to a fine not exceeding \$1,000, a term of imprisonment not exceeding 90 days or a period of community service not exceeding 90 days, or any combination thereof, and each lot disposition so made may be deemed a separate violation. [Amended 7-13-1999 by Ord. No. 408]
- B. Any owner, tenant or other occupant, agent, architect, builder, contractor or any other worker or any other person who shall commit, take part or assist in any violation, other than a violation set forth in Subsection A, or who shall knowingly maintain any building or premises in which any violation of this chapter shall exist may, upon conviction thereof, for each and every violation, be subject to a fine not exceeding \$1,000, a term of imprisonment not exceeding 90 days or a period of community service not

exceeding 90 days, or any combination thereof, in the discretion of the Court. Each day that a violation is permitted to exist shall constitute a separate offense. [Amended 7-13-1999 by Ord. No. 408]

- C. Civil remedy; unlawful building. In case any building or structure is erected, constructed, altered, repaired, converted or maintained, or any building, structure or land issued in violation of this chapter, the Borough Council, the Building Inspector or an interested party, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.
- D. Civil remedy; unlawful sale of land.
- (1) In addition to the other remedies set forth in this chapter, the Borough Council or Building Inspector may, in the event of a sale, transfer or agreement which violates Subsection A, institute and maintain an action: [Amended 7-13-1999 by Ord. No. 408]
 - (a) For injunctive relief; and
 - (b) To set aside and invalidate any conveyance made pursuant to such a contract of sale if a certificate as to approval of subdivision of land shall not have been issued for such conveyance.
 - (2) In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land from which the subdivision was made that remains in the possession of the developer or his or her assigns or successors, to secure the return of any deposit made or purchase price paid and also a reasonable search fee, survey expense and title closing expense, if any. Any such action must be

brought within two years after the date of the recording of the instrument of transfer sale or conveyance of said land or within six years, if unrecorded.