

ORDINANCE NO. 2021:14

AN ORDINANCE TO AMEND CHAPTER XXX OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF NEW MILFORD ENTITLED "LAND USE REGULATIONS" THEREBY AMENDING SUBSECTIONS 30-3 THROUGH 30-17

WHEREAS, the members of the Mayor and Council of the Borough of New Milford have been advised by the Planning Board that the current ordinance does not adequately address the needs of the Borough; and

WHEREAS, the Mayor and Council of the Borough of New Milford wish to amend Chapter XXX, Sections 30-3 through 30-17, to address these concerns.

NOW THEREFORE BE IT ORDAINED, the Mayor and Council of the Borough of New Milford Chapter XXX, Sections 30-3 through 30-17, are hereby repealed and replaced in their entirety as follows:

ARTICLE I GENERAL PROVISIONS

30-3 GENERAL ADMINISTRATIVE PROCEDURES.

30-3.1 Adoption of Rules and Regulations Required.

All municipal agencies shall adopt and may amend reasonable rules and regulations, not inconsistent with this chapter, for the administration of their functions, powers and duties and shall furnish a copy thereof to any person upon request and may charge a reasonable fee for such copy. Copies of all rules and regulations and amendments thereto shall be maintained in the office of the administrative officer. (Ord. No. 77:1)

30-3.2 Fees and Escrows.

- a. Prior to the consideration of an application by the Planning Board or Zoning Board of Adjustment under the terms of this chapter, the applicant shall have paid a fee covering the initial application and applicable legal, planning and engineering review costs into an escrow account established for the purpose as per the following schedule, in aggregate:

Schedule of Fees and Escrow Deposits

Subdivisions	Fees	Escrows
Minor Subdivision or Resubdivision	\$100	\$1,000
Major Subdivision - Preliminary Approval	\$200 + \$50/lot	\$2,000
Major Subdivision - Final Approval	\$200	\$1,600

Concept Review, with Review by Board's Attorney	\$50	\$350
Concept Review, with Review by Board's Attorney, Engineer and/or Planner	\$50	\$1,000

Site Plans	Fees	Escrows
Site Plan – Minor	\$200	\$1,000
Site Plan: Major Preliminary or Non-classified	\$200	\$2,000
Site Plan: Major Final or Non-classified	\$200	\$2,000
Concept Review, with Review by Board's Attorney	\$50	\$350
Concept Review, with Review by Board's Attorney, Engineer and/or Planner	\$50	\$1,000

Variations	Fees	Escrows
Residential Bulk Variance (N.J.S.A. 40:55D-70c)	\$350	\$1,500 + \$250/each additional bulk variance
Residential Use Variance (N.J.S.A. 40:55D-70d)	\$500	\$2,500
Residential Use Variance with Bulk Variations/Site Plan Approval	\$750	\$2,500 + \$250/each additional bulk variance
Business/Commercial Bulk Variance (N.J.S.A. 40:55D-70c)	\$1,000	\$2,000
Business/Commercial Use Variance (N.J.S.A. 40:55D-70d)	\$1,250	\$3,500
Business/Commercial Use Variance with Bulk Variations/Site Plan Approval	\$1,500	\$3,500 + \$250/each additional bulk variance

Miscellaneous	Fees	Escrows
Tax map listing of property owners	\$25	
Appeals filed pursuant to N.J.S.A. 40:55D-70a	\$200	\$800
Interpretations filed pursuant to N.J.S.A. 40:55D-70b	\$200	\$800

Appeals filed pursuant to N.J.S.A. 40:55D-34	\$750	\$1,000
Appeals filed pursuant to N.J.S.A. 40:55D-36	\$750	\$1,000
Certificates of Nonconformity N.J.S.A. 40:55D-68:		
• Applications to Administrative Officer	\$200	\$350
• Applications to Board of Adjustment	\$200	\$750

- b. If the applicant is applying to the Planning Board or Board of Adjustment for approval under more than one (1) of the items set forth in paragraphs a and b above, then the applicant shall pay the higher of the two (2) application fees set forth in those sections. Only one (1) application fee shall be charged per applicant.
- c. Reapplication Fees. All Planning Board/Board of Adjustment fees shall apply to any reapplication submitted by an applicant in cases of Board disapproval or voluntary withdrawal prior to Board action.
- d. Charges to Escrow Account. The following charges shall be applied to the escrow account:
1. Charges for the professional review of the application.
 2. Charges for letters of recommendation as a result of a review.
 3. Telephone conferences.
 4. Review of additional documents.
 5. Writing of easements, resolutions and developer's agreements.
 6. All costs related to special meetings requested by the applicant.
- e. Escrow Fees. All such fees for professional services are subject to increases during the course of the application process in the event that services rendered in connection with said application exceed those amounts originally deposited.
- f. Professional Fees: Special Meetings. Fees for services of Borough professionals, engineering, legal and/or other consultants, required during meetings requested by the applicant, shall be in addition to customary escrow and application fees established by this section. The sum of seventeen hundred fifty (\$1,750.00) dollars per special session constitutes a fair and reasonable additional fee.

- g. Ramps, elevators, decks and other structures provided for the handicapped or disabled, living in single or multiple family private dwellings, that require appearance before the Planning Board or Zoning Board of Adjustment for project approval shall be exempt from all Board, engineering and legal fees associated with the application.
 - 1. A physician letter confirming the need for such construction/devices shall be required.
 - 2. All fees for personal legal and engineering professionals shall be the responsibility of the applicant.
- h. Tax Map Fee. Upon the approval of any minor or major subdivision, the applicant shall pay to the Borough of New Milford a fee of fifty (\$50.00) dollars per lot for the purpose of updating and amending the Borough Tax Map to reflect any necessary changes occasioned by the subdivision. (Ord. No. 77:1; Ord. No. 78:9; Ord. No. 91:16 §2; Ord. No. 92:13 §1; Ord. No. 92:20 §1; Ord. No. 93:26 §1; Ord. No. 94:06 §1; Ord. No. 2009:08; Ord. No. 2014:03)

30-3.3 Meetings of Municipal Agencies.

- a. Time and Place of Regular and Special Meetings. Every municipal agency shall by its rules fix the time and place for holding its regular meetings for business authorized to be conducted by such agency. Regular meetings of the municipal agency shall be scheduled not less than once a month and shall be held as scheduled unless cancelled for lack of applications for development to process. The municipal agency may provide for special meetings at the call of the Chair, or on the request of any two (2) of its members, which meetings shall be held on notice to the agency's members and the public in accordance with municipal regulations. No action shall be taken at any meeting without a quorum being present. All actions shall be taken by a majority vote of a quorum except as otherwise required by this chapter.
- b. Notice of Meetings. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with municipal regulations. An executive session for the purpose of discussing and studying any matters to come before the agency shall not be deemed a regular or special meeting within the meaning of this chapter.
- c. Minutes of Meetings. Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the municipal agency and of the persons appearing by attorney, the action taken by the municipal agency and the findings, if any, made by it and the reasons therefor. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Administrative Officer. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceedings concerning the subject matter of such minutes. Such interested party may be charged a reasonable fee for reproduction of the minutes for their use.
(Ord. No. 77:1)

30-3.4 Hearings.

- a. **Scope of Hearings.** The municipal agency shall hold a hearing on each application for development, except for sketch plat applications, or adoption, revision or amendment of the Master Plan.
- b. **Rules Governing Hearings.** The municipal agency shall make the rules governing such hearings. Any maps and documents for which approval is sought at a hearing shall be on file and available for public inspection at least ten (10) days before the date of the hearing during normal business hours in the Building Department. The applicant may produce other documents, records or testimony at the hearing to substantiate or clarify or supplement the previously filed maps and documents.
- c. **Powers of the Presiding Officer.** The officer presiding at the hearing or such person as they may designate shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law, P.L. 1953, c.38 (N.J.S.A. 2A:67A-1 et seq.), shall apply.
- d. **Testimony of Witnesses.** The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer, and the right of cross examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
- e. **Rules of Evidence Not Applicable.** Technical rules of evidence shall not be applicable to the hearing, but the agency may exclude irrelevant, immaterial or unduly repetitious evidence.
- f. **Verbatim Recording of Proceedings.** The municipal agency shall provide for the verbatim recording of the proceedings by either stenographer or mechanical or electronic means. The municipal agency shall furnish a transcript, or duplicate recording in lieu thereof, on request to any interested party at their expense.
- g. **Decisions.** The municipal agency shall include findings of fact and conclusions based thereon in each decision on any application for development and shall reduce the decision to writing. The municipal agency shall provide the findings and conclusions through:
 1. A resolution adopted at a meeting held within the time period provided in the act for action by a municipal agency on the application for development; or
 2. A memorializing resolution adopted at a meeting held no later than forty-five (45) days after the date of the meeting at which the municipal agency voted to grant or deny approval. Only the members of the municipal agency who voted for the action taken may vote on the memorializing resolution, and the vote of a majority of such members present at the meeting

at which the resolution is presented for adoption shall be sufficient to adopt the resolution. The failure of a motion to approve an application shall be memorialized by resolution, as provided above, with those members voting against the motion for approval being the members eligible to vote on the memorializing resolution. The vote of any such resolution shall be deemed to be a memorialization of the action of the municipal agency; however, the date of the adoption of the resolution shall constitute the date of the decision for purposes of the mailing, filing and publications required by N.J.S.A. 40:55D-10. If the municipal agency fails to adopt a resolution or memorializing resolution as hereinabove specified, any interested party may apply to the Superior Court in a summary manner for an order compelling the municipal agency to reduce its findings and conclusions to writing within a stated time and the cost of the application, including attorney's fees, shall be assessed against the municipality.

- h. Copies of Decisions to Applicants and Administrative Officer. A copy of the decision shall be mailed by the municipal agency within ten (10) days of the date of decision to the applicant, or if represented then to their attorney, without separate charge, and to all who request a copy of the decision for a reasonable fee. A copy of the decision shall also be filed by the municipal agency in the office of the administrative officer. The administrative officer shall make a copy of such filed decision available to any interested party for a reasonable fee and available for public inspection at their office during reasonable hours.
- i. Publication of Decision. A brief notice of the decision shall be published in the official newspaper of the Borough, or in a newspaper of general circulation in the Borough. Such publication shall be arranged by the administrative officer, provided that nothing contained in this chapter shall be construed as preventing the applicant from arranging for a publication of the notice of the decision if they so desire. The period of time in which an appeal of the decision may be made shall run from the first publication of the decision, whether arranged by the municipality or the applicant.
- j. Contents of Notice of Hearing. The contents of the notice of a hearing on an application for development or the adoption of a Master Plan pursuant to this chapter shall state the date, time and place of the hearing; the nature of the matters to be considered and, in the case of notices on applications for development, an identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the Borough Tax Assessor's office; and the location and times at which any maps and documents for which approval is sought are available pursuant to this chapter.
- k. Notice of Applications. Notice pursuant to sub-paragraphs 1., 4., 5., 6., and 7. of this paragraph shall be given by the Secretary of the municipal agency. Notice pursuant to subparagraph 2. shall be given by the applicant. The notice shall be given at least ten (10) days prior to the date of the hearing.

1. Public notice of a hearing on an application for development shall be given except for conventional site plan review, minor subdivisions, sketch plats or final approval, provided that public notice shall be given in the event that relief is requested pursuant to subsection 30-6.4 of this chapter as part of an application for development otherwise excepted herein from public notice. Public notice shall be given by publication in the official newspaper of the borough or in a newspaper of general circulation in the borough.
2. Notice of a hearing requiring public notice pursuant to subparagraph 1. above shall be given by the applicant to the owners of all real property, as shown on the current tax duplicate, located within two hundred (200') feet in all directions of the property which is the subject of such hearing. Notice shall be given by serving a copy thereof on the property owner, as shown on the current tax duplicate, or their agent in charge of the property or by mailing a copy thereof by certified mail to the property owner at their address as shown on the current tax duplicate. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.
3. Upon the written request of an applicant, the administrative officer of a municipality shall, within seven (7) days, make and certify a list from the current tax duplicates of names and addresses of owners to whom the applicant is required to give notice pursuant to subparagraph 2. above. The applicant shall be entitled to rely upon the information contained in such list, and failure to give notice to any owner not on the list shall not invalidate any hearing or proceeding. A sum of ten (\$10.00) dollars shall be charged for such list.
4. Notice of all hearings on applications for development involving property located within two hundred (200') feet of an adjoining municipality shall be given by personal service or certified mail to the Clerk of such municipality.
5. Notice shall be given by personal service or certified mail to the Bergen County Planning Board of a hearing on an application for development.
6. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a State highway.
7. Notice shall be given by personal service or certified mail to the Director of the Division of State and Regional Planning of a hearing on an application for development of property which exceeds one hundred fifty (150) acres or five hundred (500) dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Borough Clerk pursuant to subsection 30-3.5 of this chapter.

8. The applicant shall file an affidavit of proof of service with the municipal agency holding the hearing on the application for development to prove compliance with subparagraph 2. above.
- I. Notice Concerning Master Plan. Concerning the Master Plan, the Planning Board shall give:
 1. Public notice of a hearing on adoption, revision or amendment of the Master Plan. Such notice shall be given by publication in the official newspaper of the Borough or in a newspaper of general circulation in the Borough at least ten (10) days prior to the date of the hearing.
 2. Notice by personal service or certified mail to the Clerk of an adjoining municipality of all hearings on adoption, revision or amendment of a Master Plan involving property situated within two hundred (200') feet of such adjoining municipality at least ten (10) days prior to the date of any such hearing.
 3. Notice by personal service or certified mail to the Bergen County Planning Board of:
 - (a) All hearings on the adoption, revision or amendment of the municipal Master Plan at least ten (10) days prior to the date of the hearing. Such notice shall include a copy of any such proposed Master Plan or any revision or amendment thereto.
 - (b) The adoption, revision or amendment of the Master Plan not more than thirty (30) days after the date of such adoption, revision or amendment. Such notice shall include a copy of the Master Plan or revision or amendment thereto.
- m. Effect of Mailing Notice. Any notice made by certified mail pursuant to paragraphs k. and l. of this subsection shall be deemed complete upon mailing.
- n. Notice of Hearing on Ordinance or Capital Improvement Program and Notice of Action on Capital Improvement Program or Official Map.
 1. Notice by personal service or certified mail shall be made to the Clerk of an adjoining municipality of all hearings on the adoption, revision or amendment of a development regulation involving property situated within two hundred (200') feet of such adjoining municipality at least ten (10) days prior to the date of any such hearing.
 2. Notice by personal service or certified mail shall be made to the Bergen County Planning Board of all hearings on the adoption, revision or amendment of any development regulation at least ten (10) days prior to the date of the hearing, and of the adoption, revision or amendment of the Borough capital improvement program or Borough Official Map not more than thirty (30) days after the date of such adoption, revision or amendment. Any notice provided hereunder shall include a copy of the proposed development regulation, the

municipal Official Map or the municipal capital program, or any proposed revision or amendment thereto, as the case may be.

3. Notice of hearings to be held pursuant to this subsection shall state the date, time and place of the hearing and the nature of the matters to be considered. Any notice by certified mail pursuant to this subsection shall be deemed complete upon mailing.
- o. Filing of Ordinances. This chapter or any revision or any amendment thereto shall not take effect until a copy thereof shall be filed with the Bergen County Planning Board. The Official Map of the Borough shall not take effect until filed with the Bergen County Recording Officer. Copies of this chapter and any revisions or amendments thereto shall be filed and maintained in the office of the Borough Administrator.
(Ord. No. 77:1; Ord. No. 85:1 §2; Ord. No. 91:16 §3)

30-3.5 Appeals.

- a. Appeal to Governing Body. Any interested party may appeal to the governing body any final decision of the Board of Adjustment approving an application for development pursuant to subsection 30-7.4 of this chapter.
- b. Time of Appeal. Such appeal shall be made within ten (10) days of the date of publication of such final decision pursuant to subsection 30-3.5i. The appeal to the governing body shall be made by serving the Borough Administrator in person or by certified mail with a notice of appeal specifying the grounds thereof and the name and address of the appellant and the name and address of their attorney, if represented. Such appeal shall be decided by the governing body only upon the record established before the Board of Adjustment.
- c. Notice. Notice of the meeting to review the record below shall be given by the governing body by personal service or certified mail to the appellant, to those entitled to notice of a decision pursuant to subsection 30-3.4h. and to the Board of Adjustment at least ten (10) days prior to the date of the meeting. The parties may submit oral and written argument on the record at such meeting, and the governing body shall provide for verbatim recording and transcripts of such meeting pursuant to subsection 30-3.4f.
- d. Review by Governing Body. The governing body shall conclude a review of the record below not later than forty-five (45) days from the date of receipt of the transcript of the hearing unless the appellant consents in writing to an extension of such period. The appellant shall arrange for a transcript pursuant to subsection 30-3.4f., or otherwise, for use by the governing body. Failure of the governing body to hold a hearing and conclude a review of the record below and to render a decision within such specified period, without such written consent of the appellant, shall constitute a decision affirming the action of the Board of Adjustment.

- e. Action of Governing Body. The governing body may reverse, remand or affirm, wholly or in part, or may modify the final decision of the Board of Adjustment.
- f. Vote Required. The affirmative vote of a majority of the full authorized membership of the governing body shall be necessary to reverse, remand or modify any final action of the Board.
- g. Stay of Proceedings. An appeal to the governing body shall stay all proceedings in furtherance of the action in respect to which the decision appealed from was made unless the Board of Adjustment certifies to the governing body, after the notice of appeal shall have been filed with such Board, that by reasons of facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court on application upon notice to the Board of Adjustment and on good cause shown.
- h. Copy of Decision to Applicant and Publication. The governing body shall mail a copy of the decision to the appellant, or if represented then to their attorney, without separate charge, and for a reasonable charge to any interested party who has requested it, not later than ten (10) days after the date of the decision. A brief notice of the decision shall be published in the official newspaper of the municipality or in a newspaper of general circulation in the municipality. Such publication shall be arranged by the administrative officer, provided that nothing contained herein shall be construed as preventing the applicant from arranging such publication if they so desire. The period of time in which an appeal to a court of competent jurisdiction may be made shall run from the first publication, whether arranged by the municipality or the applicant.
- i. Right to Court Appeal. Nothing in this chapter shall be construed to restrict the right of any party to obtain a review by any court of competent jurisdiction according to law.
(Ord. No. 77:1; Ord. No. 85:1 §3; Ord. No. 91:16 §IV)

30-3.6 Enforcement.

- a. The governing body shall enforce this chapter. To that end, the governing body, subject to the assignment of responsibilities to other municipal agencies as hereinafter set forth, authorizes the issuance of specified permits, certificates or authorizations as a condition precedent to the erection, construction, alteration, repair, remodeling, conversion, removal or destruction of any building or structure, subdivision or resubdivision of any land.
- b. Office of Zoning Officer. The governing body does hereby establish the Construction Official as the Zoning Officer for the purpose of issuing such permits, certificates or authorizations as are authorized hereunder, and they shall condition the issuance of such permits, certificates and authorizations upon the submission of such data, materials, plans, plats and information as is authorized hereunder and upon the express approval of the appropriate State, County or municipal agencies.

c. Duties of Zoning Officer and Police and Fire Departments.

1. The Zoning Officer shall perform such duties as are authorized hereunder but shall in no case, except under a written order of the Planning Board, Board of Adjustment or the Mayor and Council, issue any permit for the erection, placement or alteration of any building or grant any certificate of occupancy for any building or use where the proposed erection, placement, alteration or use thereof would be in violation of any of the provisions of this chapter coming to their attention by complaint or arising from their own personal knowledge, and if a violation is found to exist, they shall serve notice upon the owner, notifying the Mayor and Council, and prosecute a complaint to terminate the violation before the Municipal Judge.
2. It shall be the further duty of the Zoning Officer to keep a record of all applications for building permits and of all certificates of occupancy thereof issued, with a notation of all special conditions involved. The Zoning Officer shall file and safely keep copies of all plans and specifications submitted with such applications, and the same shall form a part of the records of their office and shall be available to the Mayor and Council and all other officials of the Borough.
3. It shall also be the duty of the members of the Fire and Police Departments to report any violations of the provisions of this chapter to the Code Enforcement Official and at the same time send a copy of such report to the Borough Administrator who shall present such report to the Mayor and Council.

- d. Proceedings to Prevent Unlawful Acts. In case any building or structure is erected, constructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of the Act or of any ordinance or other regulation made under authority conferred thereby, the proper local authorities of the municipality 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 the building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

(Ord. No. 77:1; Ord. No. 91:16 §V)

30-3.7 Exclusive Authority of Planning Board and Zoning Board of Adjustment.

Any power expressly authorized by this chapter to be exercised by the Planning Board or the Board of Adjustment shall not be exercised by any other body, except as otherwise provided in this chapter. (Ord. No. 77:1)

30-3.8 Tolling of Running of Period of Approval.

In the event that, during the period of approval heretofore or hereafter granted to an application for development, the developer is barred or prevented, directly or indirectly, from proceeding with the

development otherwise permitted under such approval by a legal action instituted by any State agency, political subdivision or other party to protect the public health and welfare or by a directive or order issued by any State agency, political subdivision or Court of competent jurisdiction to protect the public health or welfare and the developer is otherwise ready, willing and able to proceed with the development, the running of the period of approval under Chapter 291 of the Laws of New Jersey 1975 or under any law repealed by the chapter, as the case may be, shall be suspended for the period of time the legal action is pending or such directive or order is in effect. (Ord. No. 77:1)

30-3.9 Conditional Approvals.

- a. Pending Legal Actions or Directives. In the event that a developer submits an application for development proposing a development that is barred or prevented, directly or indirectly, by a legal action instituted by any State agency, political subdivision or other party to protect the public health and welfare or by a directive or order issued by any State agency, political subdivision or court of competent jurisdiction to protect the public health and welfare, the municipal agency shall process such application for development in accordance with this chapter and municipal development regulations, and, if such application for development complies with municipal development regulations, the municipal agency shall approve such application conditioned on removal of such legal barrier to development.
- b. Pending Approval of Other Governmental Agency. In the event that development proposed by an application for development requires an approval by a governmental agency other than the municipal agency, the municipal agency shall, in appropriate instances, condition its approval upon the subsequent approval of such governmental agency, provided that the municipality shall make a decision on any application for development within the time period provided in Chapter 291 of the Laws of New Jersey 1975 or within an extension of such period as has been agreed to by the applicant, unless the municipal agency is prevented or relieved from so acting by the operation of law.
(Ord. No. 77:1)

30-3.10 Life of a Variance; Tolling of Expiration.

- a. A variance granted by the New Milford Zoning Board of Adjustment and/or the New Milford Planning Board shall be born on the date that it is memorialized and adopted by resolution of the granting board; and
- b. A variance will expire on the two-year anniversary of said date; and
- c. The expiration of any such variance shall be tolled by the commencement of construction as defined by New Jersey case law; and
- d. The expiration of any such variance may be extended by the granting board, in its discretion, for an additional period not to exceed two (2) years from the date of extension, provided an extension is granted prior to the expiration of any such variance.

(Ord. No. 2000:13)

30-4-30-5 RESERVED.

ARTICLE II PLANNING BOARD AND ZONING BOARD OF ADJUSTMENT

30-6 PLANNING BOARD.

30-6.1 Continuation of Board.

Pursuant to the provisions of Chapter 291 of the Laws of New Jersey 1975, Section 80b, the Planning Board as heretofore established is hereby continued. (Ord. No. 77:1)

30-6.2 Membership.

- a. Classes of Membership. The membership shall consist of, for convenience of designating the manner of appointment, the four (4) following classes:
1. Class I: The Mayor or the Mayor's designee in the absence of the Mayor.
 2. Class II: One (1) of the officials of the municipality other than a member of the governing body, to be appointed by the Mayor, provided that if there is an Environmental Commission, the member of the Environmental Commission who is also a member of the Planning Board as required by Section 1 of P.L. 1968, c. 245 (N.J.S.A. 40:56A-1), shall be deemed to be the Class II Planning Board member for purposes of this chapter in the event that there are among the Class IV members of the Planning Board both a member of the Zoning Board of Adjustment and a member of the Board of Education.
 3. Class III: A member of the governing body to be appointed by it.
 4. Class IV: Six (6) citizens of the municipality, to be appointed by the Mayor. The members of Class IV shall hold no other municipal office, except that one (1) such member may be a member of the Environmental Commission, one (1) Class IV member may be a member of the Zoning Board of Adjustment, and one (1) Class IV member may be a member of the Board of Education.
- b. Terms of Office. The term of the member composing Class I shall correspond to the Mayor's official tenure or if the member is the Mayor's designee in the absence of the Mayor, the designee shall serve at the pleasure of the Mayor during the Mayor's official tenure. The terms of the members composing Class II and Class III shall be for one (1) year or terminate at the completion of their respective terms of office, whichever occurs first, except for a Class II member who is also a member of the Environmental Commission. The term of a Class II or Class IV member who is also a member of the Environmental Commission shall be for three (3) years

or terminate at the completion of their term of office as a member of the Environmental Commission, whichever comes first. The term of a Class IV member who is also a member of the Board of Adjustment or Board of Education shall terminate whenever the Class IV member is no longer a member of such other body or at the completion of their Class IV term, whichever occurs first. The terms of all Class IV members shall be four (4) years. If a vacancy in any Class shall occur otherwise than by expiration of the Planning Board term, it shall be filled by appointment, as above provided, for the unexpired term. No member of the Planning Board shall be permitted to act on any matter in which the member has, either directly or indirectly, any personal or financial interest. Any member other than a Class I member, after a public hearing if the member requests one, may be removed by the governing body for cause. For purposes of this subsection unexcused absence by a regular or alternate member from four (4) consecutive meetings of the Planning Board shall be deemed to be a just cause for removal.

c. Vote of Member After Absence. When any hearing before a Planning Board shall carry over two (2) or more meetings, a member of the Board who was absent for one (1) or more of the meetings shall be eligible to vote on the matter upon which the hearing was conducted, notwithstanding their absence from one (1) or more of the meetings; provided, however, that such Board member has available to them a transcript or recording of the meeting from which the member was absent and certifies in writing to the Board that they have read such transcript or listened to such recording.

d. There shall be appointed two (2) alternate members to the Planning Board. The alternate members shall be appointed in the same way as Class IV members and shall meet the qualifications of Class IV members of nine (9) 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 two (2) years, except the terms of the alternate members shall be such that the term of not more than one (1) alternate member shall expire in any one (1) year. A vacancy occurring otherwise than by expiration of term shall be filled by the Mayor for the unexpired term only. No alternate member shall be permitted to act on any matter in which the member has either directly or indirectly any personal or financial interest. An alternate member may after public hearing if the member requests one be removed by the governing body for cause. Alternate members may participate in discussions of the proceeding 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.

(Ord. No. 77:1; Ord. No. 85:1 §4)

30-6.3 Organization; Compensation of Members.

The Planning Board shall elect a Chair and Vice Chair from the members of Class IV, select a Secretary who may or may not be a member of the Planning Board or a municipal employee and create and fill such other offices as established by its By-Laws. An alternate member shall not serve

as Chair or Vice Chair of the Planning Board. It may employ, or contract for, and fix the compensation of legal counsel, other than the Borough Attorney, and experts and other staff and services as it may deem necessary, not exceeding, exclusive of gifts or grants, the amount appropriated by the governing body for its use. All members of the Planning Board shall serve without compensation. (Ord. No. 77:1)

30-6.4 Powers.

a. **Mandatory Powers.** The Planning Board shall follow the provisions of this chapter and shall accordingly exercise its power in regard to:

1. The Master Plan pursuant to N.J.S.A. 40:55D-28 et seq.
2. Subdivision control and site plan review pursuant to Article III of this chapter.
3. The Official Map pursuant to N.J.S.A. 40:55D-32 et seq.
4. The Zoning Ordinance, including conditional uses pursuant to Article IV of this chapter.
5. The capital improvements program pursuant to N.J.S.A. 40:55D-29 et seq.
6. Variances and certain building permits in conjunction with subdivision, site plan and conditional use approval pursuant to Article III of this chapter.

b. **Permissive Powers.** The Planning Board may:

1. Participate in the preparation and review of programs or plans required by State or Federal law or regulation.
2. Assemble data on a continuing basis as part of a continuous planning process.
3. Perform such other advisory duties as are assigned to it by ordinance or resolution of the governing body for the aid and assistance of the governing body or other agencies or officers.

c. **Referral Powers.**

1. Prior to the adoption of a development regulation or a revision or amendment thereto, the Planning Board shall make and transmit to the governing body, within thirty-five (35) days after referral, a report including recommendations concerning the proposed development regulation, revision or amendment. The governing body, when considering the adoption of a development regulation or a revision or amendment thereto, shall review the report of the Planning Board and may disapprove or change any recommendation by a vote of a majority of its full authorized membership and shall record in its minutes the reasons for not following

such recommendations. Failure of the Planning Board to transmit its report within the thirty-five (35) day period provided herein shall relieve the governing body from the requirements of this paragraph in regard to the proposed development regulation or revision or amendment thereto referred to the Planning Board.

2. The governing body may by ordinance provide for the reference of any matter or class of matters to the Planning Board before final action thereon by a municipal body or municipal officer having final authority thereon. Such reference shall not extend the time for action by the referring body, whether or not the Planning Board has submitted its report. Whenever the Planning Board shall have made a recommendation regarding a matter authorized by this chapter to another municipal body, such recommendation may be rejected only by a majority of the full authorized membership of such other body.

d. Ancillary Powers.

1. The Planning Board, when reviewing applications for approval of subdivision plats, site plans or conditional uses, shall have the power to grant, to the same extent and subject to the same restrictions as the Board of Adjustment.
 - (a) Whenever the proposed development requires approval pursuant to this act of a subdivision, site plan or conditional use (but not a variance pursuant to N.J.S.A. 40:55D-70d), the Planning Board shall have the power to grant to the same extent and subject to the same restrictions as the Board of Adjustment variances, pursuant to N.J.S.A. 40:55D-70. Whenever relief is requested pursuant to this paragraph, notice of a hearing on the application for development shall include a reference to the request for a variance or direction for issuance of a permit, as the case may be. The developer may elect to submit a separate application requesting approval of the variance or direction of the issuance of a permit and a subsequent application for any required approval of a subdivision, site plan or conditional use. The separate approval of the variance or direction of the issuance of a permit shall be conditioned upon grant of all required subsequent approvals by the Planning Board. No such subsequent approval shall be granted unless the approval can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of the zone plan and zoning regulations.
 - (b) Direction pursuant to N.J.S.A. 40:55D-34 for issuance of a permit for a building or structure in the bed of a mapped street or public drainageway, flood control basin or public area reserved pursuant to Section 23 of Chapter 291.
 - (c) Direction pursuant to N.J.S.A. 40:55D-32 for issuance of a permit for a building or structure not related to a street.

2. Whenever relief is requested pursuant to this paragraph, notice of hearing on the application for development shall include reference to the request for a variance or direction for issuance of a permit, as the case may be.

(Ord. No. 77:1; Ord. No. 85:1 §5)

30-6.5 Time Periods; County Approval.

a. Whenever an application for approval of a subdivision plat, site plan or conditional use includes a request for relief pursuant to subsection 30-6.4d. above, the Planning Board shall grant or deny approval of the application within one hundred twenty (120) days after submission by a developer of a complete application (as defined in subsection 30-11.3) to the administrative officer or within such further time as may be consented to by the applicant. Failure of the Planning Board to act within the period prescribed shall constitute approval of the application, and a certificate of the administrative officer as to the failure of the Planning Board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval herein required and shall be so accepted by the County Recording Officer for purposes of filing subdivision plats.

b. Whenever review or approval of the application by the Bergen County Planning Board is required by N.J.S.A. 40:27-6.3, in the case of a subdivision, or N.J.S.A. 40:26-6.6, in the case of a site plan, the Borough Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the Bergen County Planning Board or approval by the Bergen County Planning Board by its failure to report thereon within the required time period.

(Ord. No. 77:1; Ord. No. 85:1 §6)

30-6.6 Citizens' Advisory Committee.

After the appointment of a Planning Board, the Mayor may appoint one (1) or more persons as a Citizens' Advisory Committee to assist or collaborate with the Planning Board in its duties, but such person or persons shall have no power to vote or take other action required of the Board. Such person or persons shall serve at the pleasure of the Mayor. (Ord. No. 77:1)

30-7 ZONING BOARD OF ADJUSTMENT.

30-7.1 Continuation of Board.

Pursuant to the provisions of N.J.S.A. 40:55D-69, the Board of Adjustment, as heretofore established, is hereby continued. (Ord. No. 77:1; Ord. No. 81:11)

30-7.2 Membership; Terms.

a. The Board of Adjustment shall consist of seven (7) members and two (2) alternate members, each to be appointed by the Mayor, who shall nominate and, with the advice and consent of the Borough Council, appoint the members of the Board. Alternate members shall be designated by

the Chair as "Alternate No. 1" and "Alternate No. 2" and shall serve in rotation during the absence or disqualification of any regular member or members.

- b. Terms of Members. The term of each member shall be four (4) years, and the term of each alternate member shall be two (2) years. No member may hold any elective office or position under the municipality. No member of the Board of Adjustment shall be permitted to act on any matter in which the member has, either directly or indirectly, any personal or financial interest. A member may, after public hearing if the member requests it, be removed by the governing body for cause. For purposes of this subsection unexcused absence by a regular or alternate member from four (4) consecutive meetings of the Zoning Board of Adjustment shall be deemed to be a just cause for removal. A vacancy occurring otherwise than by expiration of term shall be filled for the unexpired term only.

(Ord. No. 77:1; Ord. No. 81:11)

30-7.3 Organization.

The Zoning Board of Adjustment is authorized to adopt bylaws and such other rules and regulations governing its procedural operation, which bylaws, rules and regulations shall be consistent with the provisions of this chapter and Chapter 291 of the Laws of New Jersey 1975. The Board shall elect a Chair and Vice Chair from its members and select a Secretary who may or may not be a member of the Board of Adjustment or a municipal employee. (Ord. No. 77:1)

30-7.4 Powers.

The Board of Adjustment shall have the power to:

- a. 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 officer based on or made in the enforcement of the zoning regulations.
- b. Hear and decide, in accordance with the provisions of any such ordinance, requests for interpretation of the Zoning Map or zoning regulations or for decisions upon other special questions upon which such Board is authorized to pass by any zoning regulations or Official Map in accordance with this chapter.
- c. (1) Where by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon the strict application of any regulation in this chapter 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. (2) Where in an application or appeal relating to a specific piece of property the purposes of the Municipal Land

Use Act N.J.S.A. 40:55D-1 et seq. would be advanced by a deviation from the land use requirements and the benefits of the deviation would substantially outweigh any detriment, grant a variance to allow departure from regulations pursuant to N.J.S.A. 40:55D-62 et seq.; provided, however, that no variance from those departures enumerated in paragraph d. of this subsection shall be granted under this paragraph and provided further that the proposed development does not require approval by the Planning Board of a subdivision, site plan or conditional use in conjunction with which the Planning Board has power to review a request for a variance pursuant to subsection 30-10.4 of this chapter.

d. In particular cases and for special reasons, grant a variance to allow departure from the Borough and use regulations to permit:

1. A use or principal structure in a district restricted against such use or principal structure.
2. An expansion of a nonconforming use.
3. Deviation from a specification or standard pursuant to N.J.S.A. 40:55D-67 pertaining solely to a conditional use.
4. An increase in the permitted floor area ratio as defined in N.J.S.A. 40:55D-4.
5. An increase in the permitted density as defined in N.J.S.A. 40:55D-4 except as applied to the required lot area for a lot or lots for detached one (1) or two (2) dwelling unit buildings which lot or lots are either an isolated undersized lot or lots resulting from a minor subdivision.
6. A height of a principal structure which exceeds by ten (10) feet or ten percent (10%) the maximum height permitted in the district for a principal structure.

A variance under this paragraph shall be granted only by affirmative vote of at least five members.

No variance or other relief may be granted under the terms of this subsection 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 regulations. An application under this subsection may be referred to any appropriate person or agency provided that such reference shall not extend the period of time within which the Zoning Board of Adjustment shall act.

e. Direct 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 drainageway, flood control basin or public area reserved pursuant to Section 23 of Chapter 291 of the Laws of New Jersey 1975.

- f. Direct issuance of a permit pursuant to N.J.S.A. 40:55D-35 for a building or structure not related to a street.
- g. Grant, to the same extent and subject to the same restrictions as the Planning Board, subdivision or site plan approval pursuant to N.J.S.A. 40:55D-37 et seq. or conditional use approval pursuant to N.J.S.A. 40:55D-67 whenever the Board of Adjustment is reviewing an application for approval of a variance pursuant to N.J.S.A. 40:55D-70d.
(Ord. No. 77:1; Ord. No. 85:1 §7)

30-7.5 Expenses and Costs.

The governing body shall make provision in its budget and appropriate funds for the expenses of the Board of Adjustment. The Board of Adjustment may employ, or contract for, and fix the compensation of legal counsel, other than the Borough Attorney, and experts and other staff and services as it shall deem necessary, not exceeding, exclusive of gifts and grants, the amount appropriated by the governing body for its use. (Ord. No. 77:1)

30-7.6 Appeals and Applications.

- a. Appeals. Appeals to the Board of Adjustment may be taken by an interested party affected by a decision of an administrative officer of the municipality based on or made in the enforcement of the zoning regulations 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 is taken, specifying the grounds of such appeal. The officer from whom the appeal is taken shall immediately transmit to the Board all the papers constituting the record upon which the action appealed from was taken. A developer may file an application for development with the Board of Adjustment for action under any of its powers without prior application to an administrative officer.
- b. Applications. The following must be submitted to the Zoning Board of Adjustment to qualify as a completed application:
 - 1. A completed application form.
 - 2. Fee required for specific application.
 - 3. Survey of premises (if construction involved in application) presented to Code Enforcement Officer for ten (10) days prior to hearing.
 - 4. Preliminary drawing of proposed construction presented to Code Enforcement Officer ten (10) days prior to hearing.
 - 5. Completed application and all requirements of this checklist fulfilled and received by the Board of Adjustment no later than ten (10) days prior to the meeting date, except where otherwise provided, in which the applicant wants the application listed.

6. Notice of hearing served on all property owners within two hundred (200') feet of the premises within ten (10) days before the hearing date. This is done in accordance with instruction sheet given to applicant.
7. Signed and dated affidavit of service, together with all certified slips and any signatures obtained indicating that notice of hearing has been sent to all necessary parties filed with Code Enforcement Officer not later than forty-eight (48) hours prior to hearing date.
8. All requirements of the New Jersey Statutes must be complied with, including notice to the proper State and County agencies.
9. Any corporation applying to the Zoning Board of Adjustment must be represented at the public hearing of the application by legal counsel.
10. Every application must be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property subject of the application. If taxes or assessments are delinquent, any relief granted shall be conditioned on prompt payment of the taxes or assessments or the making of adequate provision for the payment thereof in such manner that the Borough will be protected.
(Ord. No. 77:1; Ord. No. 85:1 §8)

30-7.7 Time Limits for Decisions.

- a. The Board of Adjustment shall render a decision no later than one hundred twenty (120) days after the date an appeal is taken from the decision of an administrative officer or the submission of a complete application for development to the Board of Adjustment pursuant to subsection 30-7.6 of this chapter. A completed application is defined in subsection 30-7.6b. Failure of the Board to render a decision within such one hundred twenty (120) day period or within further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.
- b. Whenever an applicant for development requests relief pursuant to subsection 30-7.4g. of this chapter, the Board of Adjustment shall grant or deny approval of the application within one hundred twenty (120) days after submission by a developer of a complete application to the administrative officer or within such further time as may be consented to by the applicant. Failure of the Board of Adjustment to act within the period prescribed shall constitute a decision favorable to the applicant.
- c. Whenever review or approval of the application by the County Planning Board is required by Section 5 of P.L. 1968, c. 285 (N.J.S.A. 40:27-6.3), in the case of a subdivision, or Section 8 of P.L. 1968 c. 285 (N.J.S.A. 40:27-6.6), in the case of a site plan, the Borough Board of Adjustment shall condition any approval that it grants upon timely receipt of a favorable report

on the application by the Bergen County Planning Board by its failure to report thereon within the required time.

- d. An application under this subsection may be referred to any appropriate person or agency, including the Planning Board, pursuant to subsection 30-6.4c of this chapter for its report, provided that such reference shall not extend the period of time within which the Zoning Board of Adjustment shall act.
- e. If the Board of Adjustment fails to adopt a resolution or memorializing resolution of their decision, any stated party may apply to the Superior Court in a summary manner for an order compelling the Board of Adjustment to reduce its findings and conclusions to writing within a stated time and the cost of the application, including attorney's fees, shall be assessed against the municipality.

(Ord. No. 77:1; Ord. No. 85:1 §9)

30-7.8 Modification on Appeal.

The Board of Adjustment may reverse or affirm, wholly or in part, or may modify the action, order, requirement, decision, interpretation or determination appealed from and to that end have all the powers of the administrative officer from whom the appeal is taken. (Ord. No. 77:1)

30-7.9 Stay of Proceedings by Appeal.

An appeal to the Board of Adjustment shall stay 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 Board of Adjustment, after the notice of appeal shall have been filed with them, that by reason of facts stated in the certificate a stay would, in their opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by an order of the Superior Court upon notice to the officer from whom the appeal is taken and on due cause shown. (Ord. No. 77:1)

30-8-30-9 RESERVED.

ARTICLE III SUBDIVISION AND SITE PLAN REVIEW

30-10 GENERAL PROVISIONS.

30-10.1 Purpose.

The purpose of this article is to provide rules, regulations and standards to guide land subdivision, site plans and land use control in the Borough, and promote the public health, safety, convenience, morals and general welfare of the Borough and the inhabitants thereof. It shall be administered to ensure the orderly growth and development, the conservation, protection and proper use of land and

to provide adequate provisions for circulation, utilities and services. To that end, not inconsistent with other provisions of this article for submission and processing of applications for development, including standards for preliminary and final approval and provisions for processing of final approval by stages or sections of development, prior to approving a subdivision or site plan, the Planning Board shall:

a. Within a subdivision, determine that provisions have been made ensuring:

1. Consistency of the layout or arrangement of the subdivision or land development with the requirements of the zoning regulations.
2. Streets in the subdivision or land development of sufficient width and suitable grade and suitably located to accommodate prospective traffic and to provide access for fire fighting and emergency equipment to buildings and coordinated so as to compose a convenient system consistent with the Official Map and the circulation element of the Master Plan.
3. Adequate water supply, drainage, shade trees, sewerage facilities and other utilities necessary for essential services to residents and occupants.
4. Suitable size, shape and location for any area reserved for public use.
5. Protection and conservation of soils from erosion by wind or water or from excavation or grading.

b. Within a site plan, determine that provisions have been made ensuring:

1. Preservation of existing natural resources on the site.
2. Safe and efficient vehicular and pedestrian circulation, parking and loading.
3. Screening, landscaping and location of structures.
4. Exterior lighting needed for safety reasons in addition to any requirements for street lighting.
(Ord. No. 77:1)

30-10.2 Construal of Provisions.

This article shall not be construed as superseding or repealing the provisions of Article IV, the zoning regulations, or any part thereof. All other ordinances which are inconsistent with the provisions of this article shall be deemed superseded to the extent of such inconsistency. (Ord. No. 77:1)

30-10.3 Administration by Planning Board.

The approval provisions of this article shall be administered by the Planning Board in accordance with Section 28 of Chapter 291 of the Laws of New Jersey 1975 and subsection 30-6.4a of this chapter. (Ord. No. 77:1)

30-10.4 Minimum Requirements; Variances.

The rules, regulations and standards contained in this article 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 article shall give primary consideration to the above-mentioned matters and to the welfare of the entire community. However, if the applicant or their agent can clearly demonstrate that, because of peculiar conditions pertaining to their land, the literal enforcement of one (1) or more of these regulations is impracticable or will exact undue hardship, the Planning Board may permit such variance or variances as set forth in subsection 30-7.4c. (Ord. No. 77:11; Ord. No. 85:1 §10)

30-11 FILING PROCEDURE.

30-11.1 Filing of Application Required.

a. Prior to the subdivision or resubdivision of land and prior to the issuance of a building permit, zoning permit or certificate of occupancy for any development, an application shall be submitted to and approved by the Planning Board in accordance with the requirements of this article, except that subdivision or individual lot applications for detached one- or two-family dwelling unit buildings shall be exempt from site plan review and approval. In the event that the subdivision or site plan application requires action by the Board of Adjustment as provided in this chapter, the application shall be submitted to and processed by the Board, which shall act to the same extent and subject to the same restrictions as the Planning Board as set forth in this article.

(Ord. No. 77:1; Ord. No. 85:1 §11)

30-11.2 Application Requirement; Accompanying Prints.

a. An application shall be made in eighteen (18) copies on forms available from the Building Department. It shall be accompanied by eighteen (18) copies of the subdivision plat or site plan and eighteen (18) copies of any other required documents and improvement plans.

b. An application for final subdivision approval shall be submitted with eighteen (18) copies on forms available from the Building Department. In addition, the applicant shall submit eighteen (18) copies of the subdivision plat.

c. In addition, each subdivision application requiring review by the Bergen County Planning Board shall be accompanied by one (1) additional print which shall be submitted by the applicant to the Bergen County Planning Board.

d. Digital submittals of all application materials shall also be provided to the Planning Board or Zoning Board of Adjustment.

e. The following must be included in the site plan submitted to the Planning Board:

1. Name and title of applicant, owner and person preparing map.
2. Place for signature of Chair and Secretary of the Planning Board or Zoning Board of Adjustment.
3. Place for signature of Borough Engineer.
4. Tax map Lot and Block numbers.
5. Date, scale and "North Sign".
6. Key map of the site with reference to surrounding areas and to existing street locations.
7. Zone district in which property in question falls, zone district of adjoining properties and all property in question.
8. Names of owners of all contiguous land and adjacent property.
9. Dimensions of lot, setbacks, front yard, side yards and rear yard; kind and location of fences.
10. The outside dimensions of existing and/or proposed principal building(s) and all accessory structures.
11. Right-of-way, easements and all lands to be dedicated to the municipality or reserved for specific uses.
12. The entire property in question, even though only a portion of said property is involved in the site plan; provided, however, where it is physically impossible to show the entire property on the required sheet, a separate map at an appropriate scale may be submitted.
13. Significant existing physical features including streams, water courses, rock outcrops, swampy soil etc.
14. Bearings and distance of property lines.
15. Plans of off-street parking area layout and off-street loading facilities showing location and dimensions of individual parking spaces, loading areas, aisles, traffic patterns and driveways for ingress and egress.

16. All driveways and streets within two hundred (200') feet of the site.
17. All existing and proposed curbs and sidewalks.
18. All existing and proposed utility lines within and adjacent to the subject property.
19. Method of solid waste disposal and storage.
20. Location of all existing trees or tree masses, indicating general sizes and species of trees.
21. Existing and proposed spot elevations based upon the U.S. Coastal Geodetic datum at all building corners, all floor levels, center lines of abutting roads, top and bottom curbs, property corners, gutters and other pertinent locations.
22. Location of all existing fire hydrants within six hundred (600') feet of the site and location of proposed hydrants.
23. Location, dimensions and detail of all signs and exterior lighting, including type of standards, location, radius of light and intensity in foot candles.
24. Storm drainage plan showing location of inlets, pipes, swales, berms and other storm drainage facilities, including roof leaders; indicate existing and proposed runoff calculations.
25. Typical floor plans and elevations.
26. Water supply system.
27. Existing and proposed sanitary sewage disposal system. Show percolation test holes and results and soil log data.
28. Existing and proposed contours of site at two (2') foot intervals for areas less than five (5%) percent grade and ten (10') foot intervals above five (5%) percent grade.
29. Landscaping and buffering plan showing what will remain and what will be planted indicating names of plants and trees and dimensions of each, approximate time of planting and method of planting (bare rooted, ball and burlap).

f. Items numbered 23. thru 29., are not required on minor subdivision plats unless a unique characteristic of the property in question, project or neighborhood make the inclusion of these items necessary. The Planning Board/Board of Adjustment shall, in their judgment require some or all of these items.

(Ord. No. 77:1; Ord. No. 85:1 §12; Ord. No. 91:16 §VI)

30-11.3 Application Fee.

The application shall be accompanied by a filing fee as established by this chapter to cover the technical, investigative and administrative expenses involved in processing the application. (Ord. No. 77:1)

30-11.4 Incomplete Applications.

a. 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 municipal agency, committee or designee does not certify the application to be complete within forty-five (45) days of the date of its submission the application shall be deemed complete upon the expiration of the forty-five (45) day period for purposes of commencing the applicable time period unless:

1. The applicant lacks information indicated on a checklist adopted by ordinance and provided the applicant, and
2. The municipal agency or its authorized committee or designee has notified the applicant in writing, of the deficiencies in the application within forty-five (45) days of submission of the application. The applicant may request that one (1) or more of the submission requirements be waived, in which event the agency or its authorized committee shall grant or deny the request within forty-five (45) days.

b. Nothing herein shall be construed as diminishing the applicant's obligation to prove in the application process that the applicant is entitled to approval on the application.

c. The municipal agency may subsequently require correction of any information found to be in error and submission of additional information not specified in the ordinance or any revisions of the accompanying documents, as are reasonably necessary for 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 municipal agency.

(Ord. No. 77:1; Ord. No. 85:1 §13)

30-12 REVIEW PROCEDURE.

30-12.1 Distribution of Application by Administrative Officer.

Upon receipt of an application, the designated Administrative Clerk/Coordinator shall forward same to all members of either the Planning Board or Board of Adjustment depending upon who has jurisdiction. If the Planning Board has jurisdiction, the Administrative Officer shall forward same to the subdivision or Site Plan Review Committee, if one has been appointed, and, in addition, shall send a copy to each of the following for report, recommendation and review:

- a. Borough Engineer.
- b. County Planning Board, if required by County Land Development standards.
- c. Board Attorney.
- d. Such other municipal, County, State and Federal officials and agencies as directed by either the Planning Board or Zoning Board of Adjustment.
(Ord. No. 77:1; Ord. No. 91:16 §VII)

30-12.2 Committee Review.

The Subdivision or Site Plan Committee shall review the application, along with reports required from any officials or agencies, and shall submit its findings and recommendations to the Planning Board.
(Ord. No. 77:1)

30-12.3 Planning Board Action.

- a. The Planning Board shall grant or deny the application within the times of submission of a complete application prescribed below, or within such further time as may be consented to by the applicant.

Type of Application	Period of Time for Action by Planning Board (days)
Minor subdivision or resubdivision	45
Sketch plat, major subdivision	45
Preliminary plat:	
10 lots or less	45
More than 10 lots	95
Preliminary site plan:	
10 acres of land or less	45
More than 10 acres of land	95
Final plat	45
Final site plan	45

- b. Failure of the Planning Board to act within the period prescribed shall constitute approval, and a certificate of the Borough Administrator as to the failure of the Planning Board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other evidence of approval, herein required, and shall be so accepted by the Bergen County

Recording Officer for purposes of filing subdivision plats. The applicant shall be notified of the Planning Board's action within one (1) week of its action.
(Ord. No. 77:1; Ord. No. 91:16 §VIII)

30-12.4 County Review.

Whenever review or approval of an application by the Bergen County Planning Board is required by the Bergen County land development standards, the Planning Board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the Bergen County Planning Board or approval by the Bergen County Planning Board by its failure to report thereon within the required time period. (Ord. No. 77:1)

30-12.5 Extension of Time for Action.

If the scheduled time of the Planning Board meeting allows insufficient time for the Board to reach a determination regarding action on an application within the time prescribed in this section the applicant shall be requested to consent to an extension of time. Failure of the applicant to consent to such extension of time shall constitute adequate grounds for denial of the application. (Ord. No. 77:1)

30-12.6 Distribution of Approved Plats.

Prior to returning the approved plat or site plan to the applicant, the applicant shall submit sufficient copies to the Secretary of the Planning Board in order to furnish a copy to each of the following:

- a. Borough Clerk.
 - b. Borough Engineer.
 - c. Building Inspector or Zoning Officer.
 - d. Tax Assessor.
 - e. Secretary of the Planning Board.
 - f. County Planning Board, if required under subsection 30-12.1.
 - g. Such other officials as directed by the Planning Board.
- (Ord. No. 77:1; Ord. No. 91:16 §IX)

30-12.7 Submission of Sketch Plat.

Every subdivider shall, prior to subdividing or resubdividing land, as defined in this chapter, submit a sketch plat for purposes of classification and preliminary discussion and file a copy with the Bergen County Planning Board. (Ord. No. 77:1)

30-12.8 Minor Subdivision Sketch Plat Action.

If classified and approved as a minor subdivision by unanimous action of the Subdivision Committee or a majority of the Planning Board, a notation to that effect will be made on the sketch plat. If the Bergen County Planning Board has authority to review or approve pursuant to law or otherwise, one (1) copy shall be sent to the Bergen County Planning Board before the expiration of the thirty (30) day period within which the Bergen County Planning Board may submit a report on said subdivision. After the sketch plat has been approved by the Borough Planning Board, the Chair of the Planning Board and the Borough Administrator shall affix their signatures and return the plats to the subdivider within one (1) week following the next regular meeting of the Planning Board. No further Planning Board action shall be required. (Ord. No. 77:1; Ord. No. 91:16 §X)

30-12.9 Expiration of Approval; Filing Requirements.

- a. Approval of a minor subdivision shall expire one hundred ninety (190) days from the date of municipal approval unless within such period a plat in conformity with such approval and the provisions of the Map Filing Law, P.L. 1960, c. 141 (N.J.S.A. 46:23-9.9 et seq.), or a deed clearly describing the approved minor subdivision is filed by the developer with the Bergen County Recording Officer, the Borough Engineer and the Borough Tax Assessor. Any such plat or deed accepted for such filing shall have been signed by the Chair and Secretary of the Planning Board. In reviewing the application for development for a proposed minor subdivision, the Planning Board may be permitted by ordinance to accept a plat not in conformity with the Map Filing Act, P.L. 1960, c. 141 (N.J.S.A. 46:23-9.9 et seq.), provided that, if the developer chooses to file the minor subdivision as provided herein by plat rather than deed, such plat shall conform to the provisions of the Act.
- b. The zoning requirements and general terms and conditions, whether conditional or otherwise, upon which minor subdivision approval was granted, shall not be changed for a period of two (2) years after the date of minor subdivision approval, provided that the approved minor subdivision shall have been duly recorded as provided in this subsection.

(Ord. No. 77:1)

30-12.10 Action with Respect to Major Subdivision.

If the plat is classified as a major subdivision, the Planning Board will act on such plat and, if satisfactory, give sketch plat approval. This approval will not be binding and will be subject to change, but will enable the subdivider to proceed on a reasonable, sound basis. It should be emphasized that such sketch plat approval does not carry the authority to proceed with construction. A notation of the approval shall be made on the plat, which shall be returned to the subdivider for compliance with the procedure in this section. (Ord. No. 77:1)

30-13 PRELIMINARY PLAT AND SITE PLAN PROCEDURE.

30-13.1 Submission of Application.

Applications for approval of a preliminary plat or a preliminary site plan shall be filed in accordance with Section 30-11 and shall contain all information required herein. A completed application is defined in subsection 30-11.3. (Ord. No. 77:1; Ord. No. 85:1 §14)

30-13.2 Public Hearing Upon Determination of Compliance; Filing of Amended Application.

If the Committee or Administrative Officer processing an application finds that the application is in substantial compliance with the provisions of this chapter, it shall so report to the Board, and the Planning Board shall schedule a hearing on the application pursuant to this chapter. If the application is found to be not in compliance, it shall so inform the applicant and shall require the filing of an amended application, which shall be processed as in the case of the original application. (Ord. No. 77:1; Ord. No. 91:16 §XI)

30-13.3 Procedure for Amended Application; Preliminary Approval.

If the Planning Board requires any substantial amendment in the layout of improvements proposed by the developer that have been the subject of the hearing, an amended application shall be submitted and proceeded upon, as in the case of the original application. After the Planning Board is satisfied that the proposed application, together with any conditions as imposed by the Board, meets all of the conditions of this chapter, it shall grant preliminary approval. (Ord. No. 77:1)

30-13.4 Effect of Preliminary Approval.

Preliminary approval shall, except as provided in paragraph d. of this subsection, confer upon the applicant the following rights for a three (3) year period from the date of the preliminary approval:

- a. 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 peculiar to site plan approval, 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.
- b. 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.
- c. That the applicant may apply for and the Planning Board may grant extensions on such preliminary approval for additional periods of at least one (1) year but not to exceed a total extension of two (2) years, provided that, if the design standards have been revised by ordinance, such revised standards may govern.

d. In the case of a subdivision of or site plan for an area of fifty (50) acres or more, the Planning Board may grant the rights referred to in paragraphs a., b. and c. above for such period of time longer than three (3) 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 conditions 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.

(Ord. No. 77:1)

30-13.5 Reservation of Public Areas.

a. If the Master Plan or the Official Map provides for the reservation of designated streets, public drainageways, flood control basins or public areas within the proposed development, before approving a subdivision or site plan the Planning Board may further require that such streets, ways, basins or areas be shown on the plat in locations and sizes suitable to their intended uses. The Planning Board may reserve the location and extent of such streets, ways, basins or areas shown on the plat for a period of one (1) year after the approval of the final plat or within such further time as may be agreed to by the developer. Unless during such period or extension thereof the municipality shall have entered into a contract to purchase or institute condemnation proceedings according to law for the fee or a lesser interest in the land comprising such streets, ways, basins or areas, the developer shall not be bound by such reservations shown on the plat and may proceed to use such land for private use in accordance with applicable development regulations. The provisions of this subsection shall not apply to streets and roads, flood control basins or public drainageways necessitated by the subdivision or land development and required for final approval.

b. The developer shall be entitled to just compensation for actual loss found to be caused by such temporary reservation and deprivation of use. In such instances, unless a lesser amount has previously been mutually agreed upon, just compensation shall be deemed to be the fair market value of an option to purchase the land reserved for the period of reservation, provided that determination of such fair market value shall include but not be limited to consideration of the real property taxes apportioned to the land reserved and prorated for the period of reservation. The developer shall be compensated for the reasonable increased cost of legal, engineering or other professional services incurred in connection with obtaining subdivision approval or site plan approval, as the case may be, caused by the reservation. The municipality shall provide by ordinance for a procedure for the payment of all compensation payable under this subsection.

(Ord. No. 77:1)

30-14 INSTALLATION OF IMPROVEMENTS.

30-14.1 Required Improvements.

Prior to the filing of an application for final subdivision or site plan approval, the applicant shall have installed the improvements required by this article under the supervision and inspection of the Borough Engineer, except that the Planning Board may accept performance guaranties to assure the installation of the following improvements only in major subdivisions:

- a. Streets.
- b. Street signs.
- c. Curbs and/or gutters.
- d. Sidewalks.
- e. Streetlighting.
- f. Shade trees, to be located on the street line so as not to interfere with utilities or sidewalks and shall be in conformity with the provisions and regulations of the Borough Shade Tree Commission.
- g. Topsoil Protection. No topsoil shall be removed from the site or used as spoil. Topsoil moved during the course of construction shall be redistributed so as to provide at least six (6") inches of cover to all areas of the subdivision and shall be stabilized by seeding or planting.
- h. Monuments, to be of the size and shape required by Section 4 of Chapter 358 of the Laws of 1953 and shall be placed in accordance with the statute.
- i. Water mains, culverts, storm sewers and sanitary sewers. All such installations shall be properly connected with an approved system and shall be adequate to handle all present and probable future development.
- j. Location of all actual and proposed fire hydrants. All hydrants are to be installed prior to commencement of any construction.

(Ord. No. 77:1; Ord. No. 91:16 §XII)

30-14.2 Site Plan Improvements.

All on-site improvements for site plans, as required in this article, shall be installed prior to final approval. (Ord. No. 77:1)

30-14.3 Certification of Borough Engineer.

No such performance guaranty shall be accepted unless and until the Borough Engineer shall have certified to the Planning Board the accuracy of the description of the improvements to be made and the sufficiency of the amount thereof to assure completion of improvements and the Borough Attorney shall have approved the form and sufficiency of the execution thereof. The performance guaranty shall state the time period within which all improvements are to be installed by the applicant. (Ord. No. 77:1)

30-14.4 Performance Guaranty.

- a. The performance guaranty for the installation of those improvements required shall be in favor of the Borough in an amount equal to one hundred twenty (120%) percent of the cost of such improvements. At least ten (10%) percent of the performance guaranty shall be in the form of cash or a certified check made payable to the Borough.
- b. The performance guaranty shall run for a term not to exceed eighteen (18) months from the date of final approval. With the consent of the principal, the performance guaranty may be extended by the governing body after the recommendation by the Planning Board by resolution for an additional period not exceeding eighteen (18) months.
- c. The Planning Board may, upon application by the developer or subdivider, recommend to the governing body the reduction of the amount of the performance guaranty upon certification in writing by the Borough Engineer that certain portions of the required improvements and conditions of the Board have been properly completed and upon posting of proper guaranties and maintenance bonds, provided that the remaining performance guaranty, maintenance bonds and deposit money are adequate to insure the completion of the remaining improvements.
- d. If the required improvements are not completed or corrected in accordance with the performance guaranty, the obligor and surety, if any, shall be liable thereon to the Borough for the reasonable cost of the improvements not completed or corrected, and the Borough may, either prior to or after the receipt of the proceeds thereof, complete such improvements.
- e. When all of the required improvements have been completed, the obligor shall notify the governing body in writing, by certified mail in care of the Borough Administrator, of the completion of said improvements and shall send a copy thereof to the Borough Engineer. Thereupon, the Borough Engineer shall inspect all of the improvements and shall file a detailed report, in writing, with the governing body, indicating either approval, partial approval or rejection of the improvements with a statement of reasons for any rejection. If partial approval is indicated, the cost of the improvements rejected shall be set forth.
- f. The governing body shall either approve, partially approve or reject the improvements, on the basis of the report of the Borough Engineer and shall notify the obligor in writing, by certified mail, of

the contents of said report and the action of the governing body with relation thereto, not later than sixty-five (65) days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from all liability pursuant to its performance guaranty, except for that portion adequately sufficient to secure provision of the improvements not yet approved. Failure of the governing body to send or provide such notification to the obligor within sixty-five (65) days shall be deemed to constitute approval of the improvements, and the obligor and surety, if any, shall be released from all liability, pursuant to such performance guaranty.

g. If any portion of the required improvements is rejected, the governing body may require the obligor to complete such improvements and, upon completion, the same procedure of notification as set forth in this subsection shall be followed.

(Ord. No. 77:1; Ord. No. 91:16 §XIII)

30-14.5 Maintenance Guaranty.

Provisions shall be made by the applicant for a maintenance guaranty to be posted with the governing body for a period not to exceed two (2) years after final acceptance of the improvements in an amount not to exceed fifteen (15%) percent of the cost of the improvements. In the event that other governmental agencies or public utilities automatically will own the utilities to be installed or the improvements are covered by a performance or maintenance guaranty to another governmental agency, no performance or maintenance guaranty, as the case may be, shall be required by the municipality for such utilities or improvements. The Borough Engineer and the Planning Board shall review the maintenance bond, and it shall be reviewed by the Borough Attorney as to form sufficiency and execution and approved by the governing body. (Ord. No. 77:1)

30-14.6 Inspection of Improvements.

All improvements required by the Planning Board, except electric and gas, shall be installed under the supervision and inspection of the Borough Engineer. No construction work covering the required improvements shall be commenced without the developer first notifying the Engineer that said construction work is about to take place. Such notice shall be given in writing to the Borough Engineer at least one (1) week before the commencement of such work. No required improvements shall be covered until inspected and approved by the Borough Engineer. (Ord. No. 77:1)

30-15 FINAL PLAT AND SITE PLAN PROCEDURE.

30-15.1 Submission of Application.

Application for approval of a final plat or a final site plan shall be filed in accordance with Section 30-11 and shall contain all the information required herein. (Ord. No. 77:1)

30-15.2 Public Hearing Upon Determination of Compliance; Filing of Amended Application.

If the Committee processing an application finds that the application is in compliance with the general terms and conditions of the preliminary approval of the application, it shall so report to the Board, and the Board shall schedule a hearing on the application pursuant to this chapter. If the application is found to be deficient in any respect, the Committee shall so inform the applicant and shall require the filing of an amended application, which shall be processed as in the case of the original application. (Ord. No. 77:1)

30-15.3 Granting of Final Approval.

After the Planning Board or Board of Adjustment, as the case may be, is satisfied that the proposed application, together with any conditions as imposed by said Board, meets all the conditions of preliminary approval, it shall grant final approval. (Ord. No. 77:1)

30-15.4 Distribution of Approved Plats.

If final approval is granted, copies of the plat or site plan shall be signed by the Chair and Secretary of the Board granting said approval, and the Secretary shall file the approved plans with the following:

- a. Borough Clerk.
 - b. Borough Engineer.
 - c. Building Inspector or Zoning Officer.
 - d. Tax Assessor.
 - e. Secretary of the Planning Board.
 - f. County Planning Board. Applicant shall be responsible for forwarding Bergen County Board application, fees and plat.
- (Ord. No. 77:1; Ord. No. 91:16 §XIV)

30-15.5 Effect of Final Approval.

The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer pursuant to subsection 30-13.4 of this chapter, whether conditionally or otherwise, shall not be changed for a period of two (2) years after the date of final approval, provided that, in the case of a major subdivision, the rights conferred by this subsection shall expire if the plat has not been duly recorded within the time period required herein. 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, the Planning Board may extend such period of protection for extensions of one (1) year but not to exceed three (3) extensions. Notwithstanding any other

provisions of this chapter, the granting of final approval terminates the time period of preliminary approval pursuant to subsection 30-13.4 for the section granted final approval. (Ord. No. 77:1)

30-15.6 Recording of Final Approval.

Final approval of a major subdivision shall expire ninety-five (95) days from the date of signing of the plat unless within such period the plat shall have been duly filed by the developer with the Bergen County Recording Officer. The Planning Board may for good cause shown extend the period for recording for an additional period not to exceed one hundred ninety (190) days from the date of signing of the plat. (Ord. No. 77:1)

30-15.7 Required Signatures.

No subdivision plat shall be accepted for filing by the Bergen County Recording Officer until it has been approved by the Planning Board as indicated on the instrument by the signature of the Chair and Secretary of the Planning Board or a certificate has been issued pursuant to Chapter 291 of the Laws of New Jersey 1975. The signatures of the Chair and Secretary of the Planning Board shall not be affixed until the developer has posted the guaranties required pursuant to subsections 30-14.4 and 30-14.5. If the Bergen County Recording Officer records any plat without such approval, such recording shall be deemed null and void. (Ord. No. 77:1)

30-15.8 Penalty for Selling Land Prior to Final Approval.

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 municipal approval is required by ordinance pursuant to this chapter, such person shall be subject to the penalty stated in Chapter I, Section 1-5 and each lot disposition so made may be deemed a separate violation. (Ord. No. 77:1; New)

30-15.9 Civil Remedies.

- a. In addition to the foregoing, the municipality may institute and maintain a civil action for injunctive relief and to set aside and invalidate any conveyance made pursuant to such a contract of sale if a certificate of compliance has not been issued in accordance with this chapter.
- b. 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 their assigns or successors to secure the return of any deposits made or purchase price paid and also to a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within two (2) years after the date of the recording of the instrument of transfer, sale or conveyance of the land, or within six (6) years if unrecorded. (Ord. No. 77:1)

30-16 SUBDIVISION PLAT AND SITE PLAN DETAILS.

30-16.1 Minor Subdivision.

Minor subdivision sketch plats shall be based on Tax Map information or some other similarly accurate base at a scale (preferably not more than one hundred (100') feet to the inch) to enable the entire tract to be shown on one (1) sheet. It shall show or include the following information:

- a. The location of that portion which is to be subdivided in relation to the entire tract.
- b. All existing structures and wooded areas within the portion to be subdivided and within two hundred (200') feet thereof.
- c. The name of the owner and of all adjoining property owners as disclosed by the most recent tax records.
- d. The Tax Map sheet, block and lot numbers.
- e. All streets or roads and streams.
- f. Certified survey of the lot including all setback distances, front yard, side yard, and rear yard.
Distances of all accessory structures from lot lines must be shown.
(Ord. No. 77:1; Ord. No. 91:16 §XV)

30-16.2 Major Subdivision Sketch Plat.

Major subdivision sketch plats shall be based on Tax Map information or on some other similarly accurate base at a scale (preferably not less than two hundred (200') feet to the inch) to enable the entire tract to be shown on one (1) sheet. It shall show or include the following information:

- a. The location of that portion which is to be subdivided in relation to the entire tract.
- b. All existing structures and wooded areas within the portion to be subdivided and within two hundred (200') feet thereof.
- c. The name of the owner, all adjoining property owners, owners of property directly across the street from the property involved and owners of property within two hundred (200') feet of the limits of the subdivision, all as disclosed by the most recent tax records.
- d. The Tax Map sheet, block and lot numbers.
- e. All streets or roads and streams within five hundred (500') feet of the subdivision.
(Ord. No. 77:1)

30-16.3 Preliminary Plat.

The preliminary plat shall be clearly and legibly drawn or reproduced at a scale of not less than one (1") inch equals one hundred (100') feet. It shall be designed and drawn by a New Jersey licensed professional engineer or surveyor in compliance with the provisions of Section 30-17 of this chapter and shall show or be accompanied by the following:

- a. A key map showing the entire subdivision and its relation to surrounding areas.
- b. The tract name; Tax Map sheet, block and lot number; date, reference meridian; graphic scale; and the names and addresses of the record owner or owners, of the subdivider and of the person who prepared the map.
- c. The acreage of the tract to be subdivided, to the nearest tenth of an acre.
- d. Contours at five (5') foot intervals for slopes averaging ten (10%) percent or more and at two (2') foot intervals for land of lesser slope to determine the general slope and natural drainage of the land and the high and low points and tentative cross sections and centerline profiles for all proposed new streets.
- e. The location of existing and proposed property lines, streets, buildings, watercourses, railroads, bridges, culverts, drain pipes and any natural features such as wooded areas and rock formations.
- f. Plans of proposed utility layouts (sewers, storm drains, water, gas and electricity) showing feasible connections to existing or any proposed utility systems. When an individual water supply or sewage disposal system is proposed, the plan for such system must be approved by the appropriate local, County or State health agency.

When a public sewage disposal system is not available, the subdivider shall have percolation tests or test holes made and submit the results with the preliminary plat. Any subdivision or part thereof which does not meet with the established requirements of this chapter or of other applicable regulations shall not be approved.

Any remedy proposed to overcome such a situation shall first be approved by the appropriate local, County or State health agency.

- g. A copy of any existing or proposed protective covenants or deed restrictions applying to the land being subdivided.

(Ord. No. 77:1)

30-16.4 Final Plat.

The final plat shall be drawn in ink on tracing cloth at a scale of not less than one (1") inch equals one hundred (100') feet and in compliance with all the provisions of N.J.S.A. 46:23-9.9 et seq. The final plat shall show or be accompanied by the following information:

- a. Date, name and location of the subdivision, the name of the owner and subdivider, graphic scale and reference meridian.
- b. 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, all with accurate dimensions, bearings or deflection angles; and radii; arcs and central angles of all curves.
- c. The purpose of any easement or land reserved or dedicated to public use shall be designated, and the proposed use of sites other than residential shall be noted.
- d. Each block shall be numbered in conformance with the Borough Tax Map, and the lots within each block shall be numbered consecutively beginning with No. 1.
- e. Minimum building setback line on all lots and other sites.
- f. Location and description of all monuments.
- g. Names of owners of adjoining land.
- h. Certification by the subdivider's engineer or surveyor as to accuracy of details of the plat.
- i. Certification that the subdivider is the agent for or is the owner of the land or that the owner has given consent under an option agreement.
- j. When approval of a plat is required by an officer or body of the Borough, the County or the State, approval shall be certified on the plat.
- k. Cross sections and profiles of streets, approved by the Borough Engineer, shall be required to accompany the final plat.
- l. Grading plan showing existing and final contours at five (5') foot intervals for slopes averaging ten (10%) percent or greater and at two (2') foot intervals for land of lesser slope.
- m. Plans and profiles of storm and sanitary sewers and water mains.
- n. Certificate from the Tax Collector that all taxes are paid to date.

o. Location of existing and proposed fire hydrants. Show location of all existing hydrants within six hundred (600') feet of the site.

(Ord. No. 77:1; Ord. No. 91:16 §XVII)

30-16.5 Preliminary Site Plan.

The preliminary site plan shall be drawn at a scale of at least one (1") inch equals thirty (30') feet; provided, however, that where this scale would result in an unduly large map, the Planning Board may permit a larger scale. The site plan shall include the following information.

- a. Name and title of the applicant, owner and person preparing the map.
- b. Place for the signature of the Chair and Secretary of the Planning Board.
- c. Place for the signature of the Borough Engineer.
- d. Tax Map lot and block number.
- e. Date, scale and North sign.
- f. Zone in which the property in question falls and zone dividing lines through, abutting or near the property.
- g. The entire property in question even though only a portion of the property is involved in the site plan; provided, however, that where it is physically impossible to show the entire property on one (1) sheet, a key map is permitted.
- h. All abutting streets and property lines and location and setbacks of buildings on abutting lots, including fences, parking areas and access drives.
- i. Front, side and rear setback dimensions.
- j. All lot line dimensions.
- k. Rights-of-way, easements and all other interests in lands any of which are required by this chapter to be deeded to the Borough.
- l. The principal buildings and all accessory buildings, with dimensions, including the height, number of stories and first floor elevation.
- m. Type of paving, curbs, sidewalks, parking space layouts and loading areas, with dimensions.
- n. Location and construction details of catch basins and all storm drainage facilities.

- o. Location, size and type of all proposed landscaping, including shade trees, both on the lot and along the public right-of-way. In addition, design details of fences, walls, guard rails and similar facilities shall be furnished. Plans for landscaping and landscape structures must accompany the application but may be on a separate plan to be approved by the Planning Board.
- p. Location and type of all proposed lighting.
- q. Location, size and general description of all proposed signs, including both business signs and those related to off-street parking or loading areas.
- r. Building elevations, in order to demonstrate that the proposed building or buildings will be aesthetically acceptable and in keeping with the character of the area in which they are to be located.
- s. Building plans and elevations.
- t. Any other requirement of this chapter.
- u. A Soil Erosion and Sediment Control Plan. The plan shall be submitted to the Soil Conservation District, and approval of the application shall be conditioned upon certification of the soil erosion and sediment control plan by the District.
- v. Map showing the entire drainage area and the drainage area contributing to each pertinent drainage structure along with drainage tabulation sheets showing calculations for each drainage area. Each drainage area shall be marked for identification purposes.
- w. Official seal of the licensed professional engineer, land surveyor, architect or planner preparing the plans.
- x. Location of existing and proposed fire hydrants within six hundred (600') feet of the site.
- y. Compliance with existing streetscape in the area to the greatest extent possible and in a manner acceptable to the Borough Engineer.
(Ord. No. 77:1; Ord. No. 91:16 §XVIII; Ord. No. 2012:06)

30-16.6 Waiver of Site Plan Details.

If it can be demonstrated that, because of peculiar conditions relating to the property or proposed construction, any of the above details are not necessary to properly evaluate the site plan, the Site Plan Committee may modify or waive any of the specific site plan details. (Ord. No. 77:1)

30-16.7 Final Site Plan.

The final site plan shall be drawn in the same manner as the preliminary site plan and shall include all those details outlined in subsection 30-16.5 above. In addition, the final site plan shall show or include the following:

- a. Final contours of the property and for one hundred (100') feet outside the property at two (2') foot intervals when new buildings or parking areas or resurfacing of existing parking areas are proposed. If only a portion of the property is being developed, contours need only be shown for said portion and one hundred (100') feet beyond.
- b. Final building floor plans and front, rear and side building elevations showing building materials.
- c. The location, type and size of existing and proposed catch basins, storm drainage facilities and all utilities, both above and below the ground.
- d. The location, type and size of all existing and proposed curbs, sidewalks, driveways, fences, retaining walls, parking space areas and the layouts thereof and all off-street loading areas, together with the dimensions of all the foregoing.
- e. The location, size and nature of all existing and proposed rights-of-way, easements and other encumbrances which may affect the premises in question, and the location, size and description of any lands contemplated to be dedicated to the borough.
- f. The location, size and nature of the entire property in question, and any contiguous property owned by the applicant or in which the applicant has a direct or indirect interest, even though only a portion of the entire property is involved in the site plan for which approval is sought; provided, however, that where it is physically impossible to show such entire property or contiguous property or properties on one (1) map, a key map thereof shall be submitted.
- g. The location, names and widths of all existing and proposed streets abutting the premises in question, the property lines of all abutting properties, together with the names and addresses of the owners as disclosed on the Borough Tax Map and tax rolls on file in the Borough offices as of the date of the site plan application.
- h. A landscaping plan shall be submitted and be subject to review and approval by the Planning Board. The landscaping plan shall show in detail the proposed setback dimensions for all buildings and the location, size and type of all plantings, including lawns, to be used on the site. All areas not used for buildings or off-street parking shall be included in the landscape plan.

i. Location of existing and proposed fire hydrants.

(Ord. No. 77:1; Ord. No. 91:16 §XIX)

30-16.8 Review of Final Site Plan by Planning Board.

The Planning Board shall review the final site plan in the same manner as the preliminary site plan and shall ascertain that all requirements of this chapter are complied with. (Ord. No. 77:1)

30-16.9 Completion of Improvements; Performance Guaranty.

Prior to the issuance of a certificate of occupancy, all improvements as shown on the approved site plan shall have been completed. When by reason of adverse weather conditions completion of certain improvements would cause an undue delay, the Planning Board shall require the posting of a performance guaranty sufficient in amount to cover the cost of all such uncompleted improvements as estimated by the Borough Engineer, assuring the installation of such uncompleted improvements within one (1) year of the posting of the performance guaranty. The amount of the performance guaranty shall be fixed by the Planning Board and shall not be in excess of one hundred twenty (120%) percent of the cost of uncompleted improvements as estimated by the Borough Engineer. The performance guaranty shall be in the form of a certified check, drawn on a bank which is a member of the Federal Reserve System, payable to the Borough of New Milford. The performance guaranty shall be approved by the Borough Attorney as to form and execution. Failure to comply with any of the conditions of site plan approval subsequent to the receipt of a building permit or certificate of occupancy, as the case may be, shall be construed to be a violation of this chapter and shall be grounds for the revocation of any building permit or certificate of occupancy, as the case may be. If the Code Enforcement Officer finds that any conditions of site plan approval have not been met, the Code Enforcement Officer shall give the applicant ten (10) days' written notice to comply with the conditions, and failure to comply within this ten (10) day period shall result in the revocation of the building permit or certificate of occupancy, as the case may be. Such violations may additionally or singly also be prosecuted under subsection 30-3.6.

30-17 SUBDIVISION IMPROVEMENTS.

30-17.1 General Requirements.

The subdivision plat shall conform to design standards that will encourage good development patterns within the municipality. Where either or both an Official Map or Master Plan has or have been adopted, the subdivision shall conform to the proposals and conditions shown thereon. The streets, drainage rights-of-way, school sites, public parks and playgrounds 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 drainage rights-of-way shall be shown on the final plat in accordance with Section 20 of Chapter 433 of the Laws of 1953 and shall be such as to lend themselves to the harmonious development of the municipality and enhance the public welfare in accordance with the following design standards. (Ord. No. 77:1)

30-17.2 Streets.

- a. 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.

- b. Minor streets shall be so designed as to discourage through traffic.
 - c. Subdivisions that adjoin or include existing streets that do not conform to widths as shown on the Master Plan or Official Map or the street width requirements of this chapter shall dedicate additional width along either one (1) or both sides of the road. If the subdivision is along one (1) side only, one-half (1/2) of the required extra width shall be dedicated.
 - d. Grades of streets shall not exceed ten (10%) percent. No street shall have a minimum grade of less than six-tenths of one (0.6%) percent.
 - e. Intersections.
 - 1. Street intersections shall be as nearly at right angles as is possible and in no case shall be less than sixty (60°) degrees.
 - 2. The block corners at intersections shall be rounded at the curblines with a curve having a radius of not less than twenty-five (25') feet [fifteen (15') feet at lot line].
 - f. Street jogs with centerline offsets of less than one hundred twenty-five (125') feet shall be prohibited.
 - g. When connecting street lines deflect from each other at any one point by more than ten (10°) degrees and not more than forty five (45°) degrees, they shall be connected by a curve with a radius of not less than one hundred (100') feet.
 - h. All changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance.
 - i. Dead-End Streets.
 - 1. Dead-end streets (cul-de-sacs) shall not be longer than five hundred (500') feet and shall provide a turnaround at the end with a radius of not less than fifty (50') feet.
 - 2. If a dead-end street is of a temporary nature, a similar turnaround shall be provided and provisions made for future extension of the street and reversion of the excess right-of-way to the adjoining properties.
- (Ord. No. 77:1)

30-17.3 Blocks.

- a. Block length and width or acreage within bounding roads shall be such as to accommodate the size of lot required in the area by the zoning regulations and to provide for convenient access, circulation, control and safety of street traffic.

b. In blocks over one thousand (1,000') feet long, pedestrian crosswalks may be required in locations deemed necessary by the Planning Board. Such walkways shall be ten (10') feet wide and shall be straight from street to street.

(Ord. No. 77:1)

30-17.4 Lots.

a. Lot dimensions and area shall not be less than the requirements of the zoning regulations.

b. Insofar as is practical, side lot lines shall be at right angles to straight streets and radial to curved streets.

c. Each lot must front upon an approved street at least fifty (50') feet in width.

d. 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 or similar circumstances, the Planning Board may, after adequate investigation, withhold approval of such lots.

(Ord. No. 77:1)

30-17.5 Public Use and Service Areas.

a. In large-scale development, easements along rear property lines or elsewhere for utility installation may be required. Such easements shall be at least fifteen (15') feet wide and located in consultation with the companies or municipal departments concerned.

b. 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.

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

(Ord. No. 77:1)

BE IT FURTHER ORDAINED that the remainder of this ordinance remains unchanged, and that this amendment shall become effective upon passage and publication in accordance with law.