

SUBDIVISIONS

CHAPTER 25.

SUBDIVISIONS.¹

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Article I. In General.

Sec. 25-1. Title.

This chapter shall be known as the “Subdivision and Site Plan Ordinance for the Town of Westfield.” (G.O. No. 1185, § 1.)

Sec. 25-2. Purpose.

It is the intent and purpose of the chapter to guide the appropriate use or development of all lands in the town in a manner which will promote the public health, safety, morals and general welfare; to provide rules, regulations and standards to guide land subdivision

¹ For state law as to municipal planning generally, see N.J.S.A., §§ 40:55-12 to 40:55-1.38.
As to soil removal, see ch. 22 of this Code. As to zoning regulations, see Appendix B of this volume.

and site plan review that will contribute to the well-being of persons, neighborhoods and the entire municipality; to encourage the appropriate and efficient expenditure of public funds by the coordination of public development with land use policies; to promote a desirable visual environment through creative development techniques and good civic design and arrangements; and to establish orderly uniform procedures relating to land use and development regulation. (G.O. No. 1185, § 1.)

Sec. 25-3. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Administrative officer. The town clerk unless a different municipal official is designated by this chapter or state statute.

Applicant. A developer submitting an application for development.

Application for development. The application for and all accompanying documents required by this chapter for approval of a subdivision plat, site plan, planned development, conditional use or zoning variance.

Days. Calendar days.

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

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

Drainage right-of-way. The lands required for the installation of storm water sewers, brook enclosure, brook channel improvements or drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage in accordance with chapter one of title 58 of the New Jersey Statutes Annotated.

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

Final plat. The final map of all or a portion of the subdivision which is submitted to the town clerk for final planning board approval in accordance with this chapter and which, if approved, shall be filed with the proper county recording officer.

Governing body. The chief legislative body of the town.

Interested party.

- (a) In a criminal or quasi-criminal proceeding, any citizen of the state; and
- (b) In the case of a civil proceeding in any court or in an administrative proceeding before a municipal agency, any person, whether residing within or without the town, whose rights to use, acquire or enjoy property is or may be affected by any action taken

under this chapter or under any other law of this state or of the United States have been denied, violated or infringed by an action or failure to act under this chapter.

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

Maintenance guarantee. Any security, other than cash, which may be accepted by the town for the maintenance of any improvements required by this chapter.

Major subdivision. Any subdivision not classified as a minor subdivision or resubdivision.

Master plan. A composite of one or more written or graphic proposals for the development of the municipality as set forth in and adopted pursuant to section 19 of chapter 291, Laws of New Jersey, 1975.

Minor subdivision. A subdivision of land that does not involve:

- (a) The creation of more than five lots on an existing street;
- (b) A planned development;
- (c) Any new street;
- (d) An extension of any off-tract improvements.

Municipal agency. The town planning board or board of adjustment, or the town council when acting pursuant to this chapter, and any agency created by this chapter that is acting pursuant to this chapter.

Official map. A map adopted by ordinance pursuant to article 5 of chapter 291, Laws of New Jersey, 1975. Such map shall be deemed conclusive with respect to the location and width of streets and public drainage ways and the location and extent of flood control basins and public areas including public parks, playgrounds, trails, paths and other recreation areas, public open spaces, scenic and historic sites, sites for schools and other public buildings and structures, whether or not such streets, ways, basins or areas are improved or unimproved or are in actual physical existence.

Off-tract. Not located on the property which is the subject of a development application nor a contiguous portion of a street or right-of-way.

On-tract. Located on the property which is the subject of a development application or on a contiguous portion of a street or right-of-way.

Owner. Any individual, firm, association, syndicate, copartnership or corporation having sufficient proprietary interest in the land sought to be processed for development under this chapter.

Performance guarantee. Any security, which may be accepted by the town including cash, in lieu of a requirement that certain improvements be made before the planning board or other municipal agency approves a subdivision plat or site plan; provided, that the town shall not require more than ten percent of the total performance guarantee in cash.

Plat. The map or maps of a subdivision.

Preliminary approval. The conferral of certain rights pursuant to sections 34, 36 and 37 of chapter 291, Laws of New Jersey, 1975, prior to final approval after specific elements of a development plan have been agreed upon by the planning board and the applicant.

Preliminary plat. The preliminary map indicating the proposed layout of the subdivision which is submitted to the town clerk for planning board consideration and preliminary approval and meeting the requirements of this chapter.

Preliminary site plan. The preliminary development plan indicating the proposed layout of the site which is submitted to the town clerk for planning board consideration and preliminary approval and meeting the requirements of this chapter.

Resubdivision. The changing or moving of any property line; provided, that no additional lots are created. "Resubdivision" shall also include the assembly of two or more lots into a fewer number of lots than existed prior to the resubdivision.

Site plan. A development plan of one or more lots on which is shown:

(a) The existing and proposed conditions of the lot, including but not necessarily limited to topography, vegetation, drainage, flood plains, marshes and waterways.

(b) The location of all existing and proposed buildings, drives, parking spaces, walkways, means of ingress and egress, drainage facilities, utility services, landscaping, structures and signs, lighting, screening devices.

(c) Any other information reasonably necessary and required in order to make an informed determination pursuant to this chapter.

Site plan committee. A committee of at least three planning board members appointed by the chairman of the board for purposes of reviewing site plans for a report back to the entire board and such other duties relating to land development which may be conferred on this committee by the board and the board's by-laws.

Sketch plat. The sketch map of a subdivision of sufficient accuracy to be used for the purpose of discussion and classification and meeting the requirements of sections 25-6 and 25-14(a) of this chapter.

Street. Any street, avenue, boulevard, road, parkway, viaduct, drive or other way:

(a) which is an existing state, county or municipal roadway; or

(b) which is shown upon a plat heretofore approved pursuant to law; or

(c) which is approved by official action as provided by this chapter; or

(d) which is shown on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a planning board and the grant to such board of the power to receive plats; and includes the land between the street lines, whether improved or unimproved; and may comprise pavement, shoulders, gutters, curbs, sidewalks, parking areas and other areas within the street lines.

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

Subdivisions. The division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale or development. The following shall not be considered subdivisions within the meaning of this chapter, if no new streets are created:

(a) Divisions of land found by the planning board or subdivision committee to be for agricultural purposes where all resulting parcels are five acres or larger in size;

(b) Divisions of property by testamentary or interstate provisions;

(c) Divisions of property by court order;

(d) Conveyances so as to combine existing lots by deed or other instrument.

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

Subdivision committee. A committee of at least three planning board members appointed by the chairman of the board for the purpose of classifying subdivisions in accordance with the provisions of this chapter, reviewing subdivisions and such other

duties relating to land subdivision which may be conferred on this committee by the board and the board's by-laws. (G.O. No. 1185, § 1.)

Article II. Review Procedures, Improvements and Standards.

Sec. 25-4. Applications – Required; filing; form; fees.

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 in the town, an application shall be submitted to and approved by the planning board in accordance with the requirements of this article with the following exceptions which shall be exempt from site plan review and approval:

Individual lot applications for detached one- or two-family dwelling unit buildings; and

Where alterations will not change the nature of use or exterior dimensions of any existing building or structure, the construction official may pass upon such alterations and waive the requirements of the site plan in order that minor alterations which comply with this chapter and the Building Code of the town may be expedited.

(a) Eighteen copies of the application for subdivision or site plan approval shall be filed with the secretary of the planning board at least twenty-one days prior to a regular meeting of the planning board.

(b) Said application shall be made on forms available from the town clerk, shall be accompanied by the required filing fee and eighteen blue or black on white prints of the subdivision plat or site plan and eighteen copies of any other required documents and improvement plans. An application for final subdivision approval shall also be accompanied by the original tracing of the subdivision plat. In addition, each subdivision application and each site plan application requiring review by the county planning board shall be accompanied by one additional print and one transparency which shall be submitted by the secretary of the planning board to the county planning board.

(c) The applications shall be accompanied by a filing fee as established by the board to cover the technical, investigative and administrative expenses involved in processing the application.

(d) If the application for development is found to be incomplete, the developer shall be notified thereof within forty-five days of submission of such application or it shall be deemed to be properly submitted.

(e) Notwithstanding any other provision of this chapter, an applicant may request his application for preliminary and final site plan be processed simultaneously in which event the filing fees for preliminary site plan approval and final site plan approval shall be set forth by ordinance. (G.O. No. 1202, § 1; G.O. No. 1185, § 1; G.O. No. 1260, § 1.)

Sec. 25-5. Same – Review procedure generally.

Upon receipt of an application, the secretary of the planning board shall forward such application to either the planning board or board of adjustment, depending upon who has jurisdiction. If the planning board has jurisdiction, the secretary of the planning board

shall forward such application to the subdivision or site plan committee and, in addition, shall send a copy to each of the following for report and recommendation:

The town engineer;

The county planning board;

Such other municipal, county, state and federal officials and agencies as directed by the subdivision and site plan committee.

(a) 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.

(b) 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
Minor subdivision or resubdivision	15 days
Sketch plat – major subdivision	45 days
Preliminary plat – ten lots or less	45 days
Preliminary plat – more than ten lots	95 days
Preliminary site plan – ten acres of land or less	45 days
Preliminary site plan – more than ten acres of land	95 days
Final plat	45 days
Final site plan	45 days

Failure of the planning board to act within the period prescribed shall constitute approval and a certificate of the town clerk 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. The applicant shall be notified of the planning board's action within one week of its action.

(c) Whenever review or approval of an application by the county planning board is required by the 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 county planning board or approval by the county planning board by its failure to report thereon within the required time period.

(d) 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.

(e) Prior to returning the approved plat or site plan to the applicant, the applicant shall submit six copies to the secretary of the planning board in order to finish a copy to appropriate municipal officers. (G.O. No. 1185, § 1.)

Sec. 25-6. Sketch plats generally.

A sketch plat of all major subdivisions may be submitted for preliminary discussion before the preliminary plat is prepared. This step is recommended by the planning board. As its name indicates, the sketch plat is designed to enable the planning board and the applicant to discuss principles involved before the applicant has gone to the expense of completing detailed engineering drawings as required for preliminary and final plats. The planning board will act on such sketch plat and, if satisfactory, give sketch plat approval. This approval will not be binding and will be subject to change, but will enable the applicant to proceed on a reasonable, sound basis. (G.O. No. 1185, § 1.)

Sec. 25-7. Minor subdivisions generally.

Prior to the subdividing or resubdividing of any land within the town, so as such subdivision constitutes a minor subdivision as defined in section 25-3 of this chapter, a minor subdivision application shall be filed in accordance with section 25-4 of this chapter and shall contain all data and information required in section 25-14(b) of this chapter.

If classified and approved as a minor subdivision by unanimous action of the subdivision committee, a notation to that effect will be made on the minor subdivision plat. The chairman of the subdivision committee shall then forward one copy of the signed minor subdivision to the planning board for their files. Such approval shall be noted in the minutes of the next regularly-scheduled meeting of the planning board following receipt of the subdivision committee report. The chairman and secretary of the planning board shall sign such minor subdivision if approved by the subdivision committee and such approval shall be deemed to be final approval. Such minor subdivision, after approval, shall be returned to the subdivider within one week following the signing of such plat by the chairman and secretary.

Approval of a minor subdivision shall expire one hundred and ninety days from the date of planning board approval unless within such period a plat in conformity with such approval and the provisions of the "Map Filing Law," Public Laws 1960, chapter 141 (New Jersey Statutes Annotated, section 46:23-9.9 et seq.) or a deed clearly describing the approved minor subdivision is filed by the developer with the county recording officer, the town engineer and the town tax assessor. Any such plat or deed accepted for such filing shall have been signed by the chairman and secretary of the planning board. In reviewing the application for development for a proposed minor subdivision, the planning board may accept a plat not in conformity with the "Map Filing Act," Public Laws, 1960, chapter 141 (New Jersey Statutes Annotated, section 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 with the provisions of such act.

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 years after the date of minor subdivision approval; provided, that the approved minor subdivision shall have been duly recorded as provided in this section.

If the application for a minor subdivision is classified as a major subdivision by the subdivision committee, the subdivider will be so notified. No further planning board

action on the application shall be required and the subdivider shall follow the procedures contained in this chapter for processing approval of a preliminary and final plat of a major subdivision. (G.O. No. 1185, § 1.)

Sec. 25-8. Preliminary approval.

Any application for approval of a preliminary plat or preliminary site plan shall be filed in accordance with section 25-4 of this article and shall contain all information as required in section 25-14, subsection (c) or (e) of this chapter as the case may be. The application will be forwarded to the planning board or board of adjustment for processing as herein required. The subdivision committee shall report to the planning board on all subdivision applications and the site plan committee shall report to the board on site plan applications.

(a) If the committee processing an application finds that such 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 The Land Use Procedures Ordinance of the town. 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.

(b) 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.

(c) Preliminary approval shall, except as provided in paragraph (4) of this subsection, confer upon the applicant the following rights for a three-year period from the date of the preliminary approval:

(1) That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions and off-tract improvements; and, in the case of a site plan, any requirements peculiar to site plan approval pursuant to section 25-15(b) of this chapter; except, that nothing herein shall be construed to prevent the municipality from modifying by ordinance such general terms and conditions of preliminary approval as relates to public health and safety.

(2) That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary subdivision plat or site plan, as the case may be;

(3) That the applicant may apply for and the planning board may grant extensions on such preliminary approval for additional periods of at least one year but not to exceed a total extension of two years; provided, that if the design standards have been revised by ordinance, such revised standards may govern; and

(4) In the case of a subdivision of or site plan for an area of fifty acres or more, the planning board may grant the rights referred to in paragraphs (1), (2) and (3) of this subsection for such period of time, longer than three years, as shall be determined by the planning board to be reasonable, taking into consideration: the number of dwelling

units and nonresidential floor area permissible under preliminary approval; economic 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; and the potential number of dwelling units and nonresidential floor area of the 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. (G.O. No. 1185, § 1.)

Sec. 25-9. Improvements generally.

Prior to the filing of an application for final subdivision or site plan approval, the applicant shall have installed the improvements required under this section, under the supervision and inspection of the town engineer; except, that performance guarantees may be accepted to assure the installation of only the following improvements in major subdivisions:

- (a) Pavement surface course consisting of machine laid bituminous concrete one and one-half inches in compacted thickness,
- (b) Concrete sidewalks,
- (c) Shade trees,
- (d) Street signs,
- (e) Monuments.

No certificate of occupancy in connection with a site plan shall be issued until all required improvements have been installed as herein required; provided, that the construction official may accept a performance guarantee for those improvements, where the prior installation of such improvements would not be in the best interest of the general public due to conditions that are peculiar to a particular application for development; and further provided, all such improvements have been installed within six months from the date of issuance of such certificate of occupancy.

No performance guarantee shall be accepted unless and until the town engineer shall have certified to 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 town attorney shall have approved the form and sufficiency of the execution thereof. The performance guarantee shall state the time period within which all improvements are to be installed by the applicant.

Also, prior to the filing of an application for final subdivision or site plan approval, the applicant shall have installed or paid his pro rata share of the cost of any off-site improvements necessitated by his development as determined in accordance with the requirements of section 25-16 of this chapter. (G.O. No. 1185, § 1.)

Sec. 25-10. Performance guarantee; completion of improvements.

The performance guarantee for the installation of those improvements required shall be in favor of the town in an amount equal to one hundred and twenty percent of the cost

of such improvements. At least ten percent of the performance guarantee shall be in the form of cash or a certified check made payable to the town.

(a) The performance guarantee shall run for a period of time consistent with the date of completion of required improvements established by the planning board.

(b) Upon application by the developer or subdivider, the governing body may reduce the amount of the performance guarantee upon certification in writing by the town engineer that certain portions of the required improvements and conditions of the board have been properly completed and upon posting of proper guarantees and maintenance bonds; provided, that the remaining performance guarantee, maintenance bonds and deposit money are adequate to ensure the completion of the remaining improvements.

(c) If the required improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, shall be liable thereon to the town for the reasonable cost of the improvements not completed or corrected, and the town may, either prior to or after the receipt of the proceeds thereof, complete such improvements.

(d) When all of the required improvements have been completed, the obligor shall notify the governing body, in writing, by certified mail addressed in care of the town clerk of the completion of such improvements and shall send a copy thereof to the town engineer. Thereupon, such 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.

(e) The governing body shall either approve, partially approve or reject the improvements, on the basis of the report of the town engineer and shall notify the obligor in writing, by certified mail, of the contents of such report and the action of the governing body with relation thereto, not later than sixty-five 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 guarantee, 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 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 guarantee.

(f) If any portion of the required improvements are 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 section shall be followed.

(g) Prior to any construction and coincident with the furnishing of the performance guarantee by the developer, there shall be drafted an agreement between the developer and the town incorporating all of the terms and conditions of approval imposed by the planning board.

Sec. 25-11. Maintenance guarantee.

Provisions for a maintenance guarantee shall be posted with the governing body for a period not to exceed two years after final acceptance of the improvements, in an amount not to exceed fifteen 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 guarantee to another governmental agency, no performance or maintenance guarantee, as the case may be, shall be required by the town for such utilities or improvements. The town engineer shall review the maintenance bond; it shall be reviewed by the town attorney to form sufficiency and execution, and it shall be approved by the governing body. (G.O. No. 1185, § 1.)

Sec. 25-12. Inspection of improvements.

All improvements required by the planning board, except electric and gas, shall be installed under the supervision and inspection of the town engineer. No construction work covering the required improvements shall be commenced without the developer first notifying the engineer that such construction work is about to take place. Such notice shall be given in writing to the town engineer at this office at least one week before the commencement of such work. No required improvements shall be covered until inspected and approved by the town engineer. (G.O. No. 1185, § 1.)

Sec. 25-13. Final approval.

Application for approval of a final plat or a final site plan shall be filed in accordance with section 25-4 and shall contain all the information prescribed in section 25-14, subsection (d) or (g) of this chapter, as the case may be. Such application shall be filed within the period prescribed in section 25-4(a) and may be for the whole or a section of the preliminary plat or site plan, as the case may be. The application will be forwarded to the planning board or board of adjustment for processing as herein required. The subdivision committee or site plan committee shall report to the planning board on all subdivision applications and site plan applications respectively.

(a) If the committee processing an application finds that such application is in compliance with the general terms and conditions of the preliminary approval of such application, it shall so report to the board, and the board shall schedule a hearing on the application pursuant to The Land Use Procedures Ordinance of the town. If the application is found to be deficient in any respect, such 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.

(b) 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 such board, meets all the conditions of preliminary approval, it shall grant final approval.

(c) Whenever review or approval of the application by the county planning board is required by section 5 of Public Laws, 1968, chapter 285 (New Jersey Statutes Annotated 40:27-6.3), in the case of a subdivision, or section 8 of Public Laws, 1968, chapter 285 (New Jersey Statutes Annotated 40:27-6.6), in the case of a site plan, the town planning board shall condition any approval that it grants upon timely receipt of a favorable report on the application by the county planning board or approval by the county planning board by its failure to report thereon within the required time period.

(d) If final approval is granted, five copies of the plat or site plan shall be signed by the chairman and secretary of the board granting such approval and the secretary shall file the approved plans with the appropriate municipal officials.

(e) The zoning requirements applicable to the preliminary approval first granted and all other rights conferred upon the developer pursuant to section 25-8(c) of this chapter, whether conditionally or otherwise, shall not be changed for a period of two years after the date of final approval; provided, that in the case of major subdivision, the rights conferred by this section shall expire if the plat has not been duly recorded within the time period provided in subsection (f) of this section. If the developer has followed the standards prescribed for final approval, and, in the case of a subdivision, has duly recorded the plat as required in subsection (f) of this section, the planning board may extend such period of protection for extensions of one year but not to exceed three extensions. Notwithstanding any other provisions of this chapter, the granting of final approval terminates the time period of preliminary approval pursuant to section 25-8(c) for the section granted final approval.

(f) Final approval of a major subdivision shall expire ninety-five 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 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 and ninety days from the date of signing of the plat.

No subdivision plat shall be accepted for filing by the county recording officer unit it has been approved by the planning board as indicated on the instrument by the signature of the chairman and secretary of the planning board or a certificate has been issued pursuant to section 44 of chapter 29:1, Public Laws, 1975. The signatures of the chairman and secretary of the planning board shall not be affixed until the developer has posted the guarantees required pursuant to section 25-9. If the county recording officer records any plat without such approval, such recording shall be deemed null and void.

(g) Nothing contained in this chapter shall be construed to permit the issuance of a building permit on any lot in a subdivision or on any lot requiring site plan approval until final approval as heretofore required is granted by the planning board or board of adjust as the case may be and properly filed by the county recording officer as herein required. (G.O. No. 1185, § 1.)

Sec. 25-14. Plat and site plan form and content.

(a) *Sketch plat.* The sketch plat shall be based on tax map information or some other similarly accurate information. The plat shall be drawn by a state licensed professional engineer or land surveyor and shall show and include the following information:

(1) **SCALE.** The plat shall be drawn accurately to scale. The minimum scale shall be one hundred feet to the inch.

(2) **LOCATION.** The location of that portion of the tract to be subdivided in relation to the entire tract.

(3) **IDENTITY.** The tax map sheet, block and lot number.

(4) **OWNERS.** The name of the owner and of all adjoining landowners as disclosed by the most recent town tax records.

(5) DIMENSIONS. The dimension of all lot lines including the area in square feet of each lot.

(6) STRUCTURES. All existing structures on the tract to be subdivided and within one hundred feet thereof.

(7) STREETS AND EASEMENTS. All existing or proposed streets, easements, restrictions, rights-of-way, streams or natural watercourses and drainage in and within one hundred feet of the subdivision, and all street names, stating the use of each easement and the text of such restrictions.

(8) ZONING. All zoning districts and the location of any zoning boundaries within the subdivision.

(9) CERTIFICATION. Name and address of the person preparing the map, and appropriate seal and state license number.

(10) DATE. Date of original preparation of the map and date of revision, if any, of map.

(11) TAX CERTIFICATION. Certification from the tax collector that no taxes or assessments for local improvements are due or delinquent.

(12) SOIL EROSION AND SEDIMENT CONTROL. Soil erosion and sediment control plan if required in accordance with Public Laws 1975, chapter 251. Such plan shall be submitted to the soil conservation district in accordance with such statute and approval of the application shall be conditioned upon certification of the soil erosion and sediment control plan by the district.

(13) SOIL REMOVAL. Soil removal plan if required in accordance with chapter 22 of this Code.

(14) STORM WATER CONTROL. Storm water control plan if required in accordance with section 8-24 et seq. of this Code.

(c) Preliminary plat. Preliminary plats shall be drawn by a state licensed professional engineer or land surveyor and shall meet all provisions of section 25-17 of this chapter and shall show or be accompanied by the following information:

(1) SCALE. The plat shall be drawn accurately to scale. The minimum scale shall be one hundred feet to the inch.

(2) KEY MAP. A key map showing the entire subdivision and its relation to surrounding areas.

(3) DATA. The tract name, tax map sheet, block and lot number, date reference meridian, graphic scale and the following names and addresses:

Name and address of record owner or owners,

Name and address of the subdivider,

Name and address of person who prepared map.

(4) OWNERS. The names of all abutting landowners as disclosed by the most recent town tax records.

(5) AREA. The total area of the tract measured in square feet.

(6) CONTOURS AND PROFILES. Contours at five-foot intervals for slopes averaging ten percent or more and at one-foot intervals for land of lesser slope to determine the general slope and natural drainage of the land and the high and low points for all proposed new streets.

(7) STREET PROFILES. Cross sections and profiles of streets approved by the town engineer shall be required to accompany the preliminary plat. A construction

sheet showing construction detail (such as a typical section of street or road, curb section, drop inlet or catch basin, manhole, guardrail detail) shall be required to accompany the preliminary plat.

(8) **PROPERTY LINES.** The location of existing and proposed property lines showing the dimensions of each.

(9) **STRUCTURE.** All existing structures on the tract to be subdivided and within one hundred feet thereof.

(10) **STREETS AND EASEMENTS.** The location of existing and proposed streets, easements, watercourses, bridges, culverts, drain pipes, any natural features such as wooded areas and rock formations in and within two hundred feet of the subdivision, and all street names, together with copies of existing easements of record.

(11) **UTILITIES.** Plans of proposed utility layouts (sanitary 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, and such approval shall be submitted with the preliminary plat. Any subdivision or part thereof which does not meet the established requirements of this chapter or 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.

(12) **ZONING.** All zoning districts and the location of any zoning boundaries within the tract.

(13) **SETBACK.** Building setback lines as required by the zoning requirements of this chapter.

(14) **DEED RESTRICTIONS.** A copy of any existing or proposed protective or restrictive covenants or deed restrictions applying to the land being subdivided shall be submitted with the preliminary plat.

(15) **OPEN SPACE.** The location of open spaces to be dedicated for public parks, playgrounds or other public uses.

(16) **LOTS AREAS.** A map showing individual lot areas including:

a. Total lot area.

b. Area that may be measured in accordance with the zoning regulations.

(17) **DRAINAGE AND GRADING.** A preliminary grading and drainage system shall be part of the preliminary layout.

(18) **WATER, GAS AND SEWER UTILITIES.** Plans and profiles of storm and sanitary sewers including sizes and types of materials and water and gas-main locations.

(19) **TAX CERTIFICATION.** Certification from the tax collector that no taxes or assessments for local improvements are due or delinquent on the subject property.

(20) **SOIL EROSION AND SEDIMENT CONTROL.** A soil erosion and sediment control plan, if required, in accordance with Public Laws 1975, chapter 251. Such plan shall be submitted to the soil conservation district in accordance with such statute and approval of the application shall be conditioned upon certification of the soil erosion and sediment control plan by the district.

(21) **SOIL REMOVAL.** Soil removal plan if required in accordance with chapter 22 of this Code.

(22) STORM WATER CONTROL. Storm water control plan if required in accordance with section 8-24 et seq. of this Code.

(d) *Final plat.* The final plat shall be drawn by a state licensed engineer or land surveyor as required by law in ink on tracing cloth or mylar and shall be in compliance with all provisions of chapter 141 of the Laws of 1960. The final plat shall show or be accompanied by the following:

(1) SCALE. The plat shall be drawn accurately to scale. The minimum scale shall be one hundred feet to the inch.

(2) DATA. Date, name and location of the subdivision, name of owner and subdivider, graphic scale and reference meridian.

(3) PROPERTY LINES. Tract boundary lines, right-of-way lines of streets, street names, easements and other rights-of-way, land to be reserved or dedicated to public use, all lot lines and other site lines, with accurate dimensions, bearings or deflections, angles and radii, arcs and central angles of all curves.

(4) USE OF LAND. The purpose of any easement of land reserved or dedicated to public use shall be designated and the proposed use of sites other than residential shall be noted.

(5) BLOCK AND LOT NUMBERS. Each block shall be numbered in conformance with the tax map of the town and the lots within each new block shall be numbered as required by the tax assessor.

(6) SETBACK LINES. Minimum building setback line on all lots and other sites.

(7) MONUMENTS. Location and description of all monuments.

(8) ADJOINING PROPERTY OWNERSHIP. Names of owners of adjoining land.

(9) ENGINEER'S CERTIFICATION. Certification by engineer or surveyor as to accuracy of plat.

(10) OWNER'S CERTIFICATION. Certification that the applicant is agent or owner of the land or that the owner has given consent under an option agreement.

(11) CERTIFICATION OF OTHER'S APPROVAL. When approval of a plat is required by any officer or body of such a municipality, county or state, approval shall be certified on the plat.

(12) IMPROVEMENTS. A statement by the town engineer that he is in receipt of a map showing all utilities in exact location and elevation identifying those portions already installed and those to be installed, and that the developer has installed all improvements in accordance with the requirements of these regulations; or a statement by the town clerk that proper performance guarantees shall be based on a detailed written estimate prepared by the town engineer showing the estimated cost of installation of all required improvements.

(13) TAX CERTIFICATION. Certificate from town tax collector that all taxes are paid to date.

(e) *Preliminary site plan.* The preliminary site plan shall be drawn at a scale of not more than fifty feet to the inch and shall include such details as may be necessary to properly evaluate the application and determine compliance with this chapter. Any site plan involving any new building, or addition thereto, or any site improvements shall be drawn by a licensed state professional engineer, land surveyor, architect or professional

planner. Where applicable to the proposed use or construction, the following information shall be clearly shown:

- (1) Name and title of applicant, owner and person preparing map.
- (2) Place for signature of chairman and secretary of the planning board.
- (3) Place for signature of the town engineer.
- (4) Town tax map lot and block number.
- (5) Date, scale and north sign.
- (6) Zone district in which property in question falls and zone district of adjoining property.
- (7) All existing and proposed signs and their size, nature of constructions and location. All existing and proposed exterior lighting, including size, nature of construction, location, height, the area and direction of illumination and the lumen power.
- (8) Rights-of-way, easements and all lands to be dedicated to the town.
- (9) The entire property in question, even though only a portion of such property is involved in the site plan; provided, that where it is physically impossible to show the entire property on the required sheet, a key map is permitted.
- (10) All abutting streets and property lines.
- (11) Indication of sanitary disposal system.
- (12) Area of the lot and all lot line dimensions.
- (13) Location of all existing and proposed buildings with building setback, side line and rear yard distances.
- (14) Location of off-street parking areas showing proposed parking sidewalks and loading spaces, with dimensions, width of proposed access drives and aisles and traffic circulation.
- (15) Existing and proposed contours of the property and for one hundred feet outside the property at two-foot intervals when new buildings or parking areas are proposed.
- (16) Elevations at the corners of all proposed buildings and paved areas at property corners if new buildings or paved areas are proposed.
- (17) Tentative building floor plans and front, rear and side building elevation drawings showing building materials. Such plans shall be at a scale of not less than one-eighth inch equals one foot. Such plans shall be drawn by a licensed architect or professional engineer, if permitted by law.
- (18) Cross sections and details for proposed surface pavement and curbing satisfactory to the town engineer.
- (19) Location of all structures on any abutting property within one hundred feet of the property in question.
- (20) Existing streams, brooks or other natural or man-made drainage facilities when pertinent to any proposed construction on the lot.
- (21) Proposed storm drainage facilities, water mains, sanitary sewer lines, water wells, waste disposal systems and facilities of this nature when pertinent to any proposed use or construction.
- (22) All fences, walls, sidewalks or similar features to be provided.
- (23) A generalized plan for proposed landscaping showing the basic treatment of unpaved areas.
- (24) The present and contemplated use of all existing buildings on the property.

(25) A soil erosion and sediment control plan if required in accordance with Public Laws 1975, chapter 251. Such plan shall be submitted to the soil conservation district in accordance with such statute and approval of the application shall be conditioned upon certification of the soil erosion and sediment control plan by the district.

(26) A 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. Aerial survey maps for these determinations are available in the office of the town engineer.

(27) Official seals of the licensed professional engineer, land surveyor, architect or planner preparing the plans.

(28) A soil removal plan if required in accordance with chapter 22 of this Code.

(29) A storm water control plan if required in accordance with section 8-24 et seq. of this Code.

(f) *Deviations from standard for preliminary site plan standards.* 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 construction official may modify or waive any of the specific site plan details.

(g) *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 (e) of this section. In addition, the final site plan shall show or include the following:

(1) Final contours of the property and for one hundred feet outside the property at two-foot intervals when new buildings or parking areas are proposed. If only a portion of the property is being developed, contours need only be shown for such portion and one hundred feet beyond.

(2) Final building floor plans and front, rear and side catch basins, storm drainage facilities and all utilities, both above and below ground.

(3) The location, type and size of existing and proposed catch basins, storm drainage facilities and all utilities, both above and below the ground.

(4) 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.

(5) The location, size and nature of all existing and proposed rights-of-way, easements in question, and the location, size and description of any lands contemplated to be dedicated to the town.

(6) 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.

(7) 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 town tax map and tax rolls on file in the town offices as of the date of the site plan application.

(8) 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, 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 landscaping plan.

(h) *Planning board review.* 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.

(G.O. No. 1185, § 1.)

Sec. 25-15. On-tract improvements.

Prior to the granting of final approval of a major subdivision plat or site plan, the applicant shall have installed or furnished performance guarantees as set forth in section 25-9 above for the ultimate installation of the improvements described below.

(a) *Installations for subdivisions.* The following improvements shall be required for all major subdivisions:

(1) **STREET GRADING.** The subdivider shall provide for the grading of all street rights-of-way, as required.

(2) **SIGHT EASEMENTS.** When required by the planning board as being essential to traffic safety, the subdivider shall provide for sight easements at street intersections to allow for proper sight distances.

(3) **PAVEMENTS AND CURBS.** In all major subdivisions in all zones, the subdivider shall construct a paved roadway thirty feet wide between town standard granite block curbs, provided, that any street shown on the town master plan or official map shall meet the pavement width requirements shown thereon. All streets shall be paved with full depth pavement six and one-half inches thick, consisting of five-inch stabilized base course and one and one-half inch bituminous concrete surface. Prior to installation of pavement, subgrade shall be approved by the town engineer.

(4) **WATER.** The subdivider shall make an adequate supply of water available to each lot within the subdivision. The subdivider shall provide for the installation of fire hydrants as approved by the town. The installation of all water supply shall be in accordance with the specifications of the public utility serving the area as approved by the state public utility commission.

(5) **DRAINAGE.** Adequate provisions shall be made for water mains, culverts, storm sewers and sanitary sewers, and all such installations shall be properly connected with an approved system and shall be adequate to handle all present and probable future development. Provisions shall also be made for special problems of drainage during construction. Brooks, streams or drainage ways shall be enclosed where the drainage area is less than four hundred fifty acres. Brooks, streams or drainage way channels shall be improved with paved bottom and sides paved to a height of twenty-four inches where the drainage area is over four hundred fifty acres.

(6) **GRADING.** Lots must be so graded as to prevent erosion or directing of water into adjacent properties.

(7) **SIDEWALKS.** The subdivider shall construct four-foot wide concrete sidewalks in all zones, or as required by the planning board. Such sidewalks shall be four inches thick, and at driveways the thickness shall be six inches.

(8) SHADE TREES. Shade trees shall be planted on each side of every street at approximately fifty-foot intervals. They shall be of a town approved type having a diameter of not less than one and three-fourths inches and shall be so located on the street line as not to interfere with sidewalks.

(9) TOPSOIL AND TREE PROTECTION. Topsoil moved during the course of construction shall be redistributed so as to provide cover to all areas of the subdivision and shall be stabilized by seeding or planting; provided, that the depth of the topsoil need not exceed six inches; and provided further that such topsoil cover shall be at least four inches in depth. Any trees that are to be removed must be done in such a manner as to comply with all applicable town ordinances.

(10) STREET SIGNS. The subdivider shall provide street signs at all intersections as approved by the town engineer.

(11) MANHOLES. The subdivider shall provide locking-type manholes at locations other than in a public street paving.

(12) SURVEY MONUMENTS. To be of the size and shape required by New Jersey Statutes Annotated, section 16:23-9.9 et seq. and shall be placed in accordance with such statute.

(b) *Installations for site plans.* The following improvements shall be required for all site plans. All off-street parking areas for nonresidential uses permitted in residential zones and all off-street parking areas in nonresidential zones shall meet all of the following requirements:

(1) All off-street parking areas shall be surfaced with a bituminous-concrete pavement with a minimum four-inch crushed stone base and a two-inch wearing surface and maintained in good condition, and shall be so graded and drained as to dispose of all surface waters as approved by the town engineer.

(2) All parking spaces within any parking area shall be clearly marked to show the parking arrangement within such parking area.

(3) All lighting for off-street parking areas shall be so arranged and shielded as to reflect the light downward and prevent any light from shining directly on adjoining streets, residential zones and residential buildings. All lighting shall be located so that the direct source of light shall not be visible from any adjacent property.

(4) All parking areas shall be effectively screened on any side which abuts or faces any premises situated in any residential zone by a fence, wall or hedge at least five feet in height, maintained in good condition, if required by the site plan approved by the planning board; provided, that such fence, wall or hedge may be waived by the planning board if, because of topographic or other extraordinary or exception conditions, the same shall not be necessary to protect any abutting or facing premises situated in any residential zone.

(5) If any fence, wall or hedge shall have been required for any parking area under paragraph (4) of this subsection then such fence, wall or hedge shall be protected by a granite block curb, which shall run parallel to such fence, wall or hedge, be at least five inches in height above the paved surface adjacent to such fence, wall or hedge, and be a sufficient distance therefrom to protect such fence, wall or hedge from the impact of motor vehicles. Utility poles or railroad ties shall not be used to meet required curbing or bumper guards.

(6) Every site plan shall show an area reserved for trash or refuse pick-up as approved by the planning board. Such area shall be so located on the premises that solid waste trucks have access to such area at all times.

(7) Provisions which are to be made for the handicapped, particularly as they relate to entrance-ways and ramps both within any new or remodeled structure and any site improvements.

(8) Sidewalks shall be constructed on the site to adequately serve pedestrian traffic as required by the planning board.

(G.O. No. 1185, § 1.)

Sec. 25-16. Off-tract improvements.

As a condition of preliminary approval and prior to any construction or the filing of an application for final approval of a subdivision or a site plan, the applicant shall have made cash payments, or, with the consent of the town, installed, in the manner provided below with respect to the immediate or ultimate installation of any required off-tract improvements.

(a) *Allocation of costs.* The allocation of costs for off-tract improvements as between the applicant, other property owners and the town or any one or more of the foregoing, shall be determined by the planning board, with the assistance of the appropriate town agencies, on the basis of the total cost of the off-tract improvements, the increase in market values of the property affected and any other benefits conferred, the needs created by the application, population and land use projections for the general area of the applicant's property and other areas to be served by the off-site improvements, the estimated time of construction of the off-site improvements and the condition and periods of usefulness, which periods may be based upon the criteria of New Jersey Statutes Annotated, section 40A:2-22. Requirements for off-tract improvements shall be consistent with section 30 of Public Laws, 1975, chapter 291. In addition, the following criteria may also be considered, as well as any other reasonable criteria the board feels is necessary to protect the health, safety and general welfare of the town.

(1) Street, curb, sidewalk, shade trees, street lights, street signs and traffic light improvements may also be based upon the anticipated increase of traffic generated by the application. In determining such traffic increase, the planning board may consider traffic counts, existing and projected traffic patterns, quality of roads and sidewalks in the area and other factors related to the need created by the applicant and the anticipated benefit thereto.

(2) Drainage facilities may also be based upon or be determined by the drainage created by or affected by a particular land use, considering:

- a. The percentage relationship between the acreage of the application and the acreage of the total drainage basin;
- b. The use of a particular site and the amount of area to be covered by impervious surfaces on the site itself; and
- c. The use, condition or status of the remaining area in the drainage basin.

(3) Water supply and distribution facilities may also be based upon the added facilities required by the total anticipated water use requirements of the property of the applicant and other properties in the general area benefiting therefrom.

(4) Sewerage facilities may be based upon the proportion that the total anticipated volume of sewage effluent of the applicant's property and other properties connected to the new facility bears to the existing capacity of existing sewerage facilities, including but not limited to lines and other appurtenances leading to and servicing the applicant's property. Consideration may also be given to the types of effluent and particular problems requiring special equipment or added costs for treatment. In the event the applicant's property shall be permitted to be connected to existing sewer facilities, the applicant shall pay a charge or be assessed in accordance with law.

(b) *Determination of cost of improvements.* The cost of installation of the required off-tract improvements shall be determined by the planning board with the advice of the town engineer and appropriate town agencies.

(c) *Manner of construction.* When those estimates are received, the governing body shall then decide whether the off-tract improvement is to be constructed:

- (1) By the town as a general improvement, or
- (2) By the town as a local improvement, or
- (3) By the applicant under a formula providing for partial reimbursement by the town for benefits to properties other than the subdivision or site plan.

(d) *Amount of contribution.* When the manner of construction has been determined, the applicant may be required to provide a cash deposit to the town of one of the following amounts:

(1) If the improvement is to be constructed by the town as a general improvement, an amount equal to the difference between the estimated cost of the improvement and the estimated total amount, if less, by which all properties to be serviced thereby, including the subject property, will be specifically benefited by the off-tract improvement;

(2) If the improvement is to be constructed by the town as a local improvement, then in addition to the amount referred to in paragraph (1) above, the estimated amount by which the subject property, will be specifically benefited by the off-tract improvement;

(3) If the improvement is to be constructed by the applicant, an amount equal to the estimated cost of the off-tract improvement, less an offset for benefits to properties other than the subject property.

(e) *Payment of allocated cost.*

(1) The estimated costs of the off-tract improvement allocated to the applicant if deposited in cash, shall be paid by the applicant to the town treasurer, who shall provide a suitable depository therefor, and such funds shall be used only for the off-tract improvements for which they are deposited or improvements serving the same purpose, unless such improvements are not initiated by the town within a period of ten years from the date of payment, after which time such funds so deposited shall be returned together with accumulated interest or other income thereon, if any.

(2) In the event the payment by the applicant to the town treasurer provided for herein is less than its share of the actual cost of the off-tract improvements then it shall be required to pay its appropriate share of the cost thereof.

(3) In the event the payment by the applicant to the town treasurer provided for above is more than its appropriate share of the actual cost of installation of the off-tract improvements, it or its successor or assigns, shall be repaid an amount equal to the difference between the deposit and its share of the actual cost.

(4) If the applicant shall deem that any of the amounts so estimated by the planning board are unreasonable, it may challenge them and seek to have them revised in appropriate proceedings brought to compel subdivision or site plan approval.

(5) If the applicant and the planning board cannot agree with respect to the applicant's appropriate share of the actual cost of the off-tract improvement, or the determination made by the officer or board charged with the duty of making assessments as to special benefits, if the off-tract improvement is to be constructed as a local improvement, no approval shall be granted; provided, that the applicant may challenge such determination and seek to have it revised in appropriate judicial proceedings in order to compel subdivision or site plan approval.

(f) *Assessment of properties.* Upon receipt from the applicant of its allocated share of the costs of the off-tract improvements, the town may adopt a local improvement assessment ordinance for the purpose of construction and installation of the off-tract improvements based upon the actual cost thereof. Any portion of the cost of the improvements not defrayed by a deposit by the applicant may be assessed against benefiting property owners by the town. Any assessments for benefits conferred made against the applicant or his successors in interest shall be first offset by a pro rata share credit of the allocated costs previously deposited with the town treasurer pertaining thereto. The applicant or his successors in interest, shall not be liable for any part of an assessment for such improvements unless the assessment exceeds the pro rata share credit for the deposit, and then only to the extent of the deficiency.

(g) *Credit for work performed.* In the event the applicant, with the town's consent, decides to install and construct the off-tract improvement, or any portion thereof, the certified cost shall be treated as a credit against any future assessment for that particular off-tract improvement, or portion thereof, constructed by the town in the same manner as if the subdivider had deposited its apportioned cost with the town treasurer, as provided herein.

(h) *Installation of improvements by applicant.*

(1) At the discretion and option of the town and with the consent of the applicant, the town may enter into a contract with the applicant, providing for the installation and construction of the off-tract improvements by the applicant upon contribution by the town of the remaining unallocated portion of the cost of the off-tract improvement.

(2) In the event the town so elects to contribute to the cost and expense of installation of the off-site improvements by the applicant, the portion contributed by the town shall be subject to possible certification and assessment as a local improvement against benefiting property owners in the manner provided by law, if applicable.

(j) *Compliance with design criteria.* Should the applicant and the Town enter into a contract for the construction and erection of the off-tract improvements to be done by the applicant, it shall observe all requirements and principles of this chapter in the design of such improvements.

(G.O. No. 1185, §1.)

Sec. 25-17. Design standards.

(a) *Subdivisions.* The applicant shall observe the following requirements and principles of land subdivision in the design of each subdivision or portion thereof:

(1) The subdivision plat shall conform to design standards that will encourage good development patterns within the town.

(2) The subdivision shall conform to the proposals and conditions shown on the town's official map and master plan, particularly as they pertain to streets, drainage rights-of-way, school sites, public parks and playgrounds and other public buildings.

(3) No subdivision showing reserve strips controlling access to streets shall be approved, except where the control and disposal of land comprising such strips has been placed in the governing body under conditions approved by the planning board.

(4) No street grade shall be less than one-half of one percent nor greater than ten percent, except in special instances where the topography of the land to be subdivided is such as to make it impossible to otherwise develop such land.

(5) Street intersection shall be as nearly at right angles as is possible and in no case shall be less than sixty degrees. The block corners at intersections shall be rounded at the property line with a radius of not less than twenty-five feet.

(6) Dead-end streets shall not exceed five hundred feet in length, except where unusual topography or other unusual conditions require it. In all subdivisions dead-end streets should provide a turnaround or cul-de-sac at the closed end with an outside curb radius of not less than forty feet, and shall have a right-of-way radius of fifty feet. In nonresidential subdivisions dead-end streets should provide a turnaround or cul-de-sac at the closed end with an outside curb radius of not less than fifty feet, and shall have a right-of-way radius of sixty feet. All turnarounds shall be entirely paved.

(7) No residential block should exceed one thousand feet in length unless approved by the planning board.

(8) No name applied to any street shall duplicate or so nearly resemble the name of any existing street within the town as to cause confusion. In the case of a direct extension of an existing street, the same name shall be used unless the board shall otherwise direct. The planning board shall, in writing, refer the names of all streets to the town council for approval in connection with the purposes of this section prior to final approval.

(9) No street shall have a right-of-way width less than fifty feet and the entire street width shall be graded. Driveway turnarounds shall be provided on all lots fronting on a major arterial street, as shown on the official map or master plan. Turnarounds will not be required for corner lots when there is a means of access to a nonarterial side street. Subdivisions that adjoin existing streets that do not conform to widths as shown on the master plan or widths as required above shall dedicate additional width along one or both sides of such street. Such additional width shall be equal to one-half the required street width measured from the center line of the street.

(10) Lot dimensions and area shall not be less than the requirements of the zoning regulations.

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

(12) Each lot shall front upon an approved street which is at least fifty feet in width, unless a greater width is required by paragraph (2) of this subsection.

(13) Where there is a question as to the suitability of lots for their intended use due to factors such as rock formations, flood conditions or similar circumstances, or where the subdivision indicates that a variance would be required to provide for an average house meeting zoning requirements, the planning board may, after adequate investigation, withhold approval of such lots.

(b) *Site plans.* The applicant shall observe the following requirements and principles in the development of a site plan or portion thereof:

(1) That the provisions of this chapter with respect to height, minimum lot areas, mandatory open spaces and the like are complied with.

(2) That adequate provision is made for off-street parking in accordance with this chapter and that adequate traffic circulation and protection to adjoining property is provided.

(3) That adequate provision is made for the disposal of storm water as approved by the town engineer.

(4) That the location, design or construction of any building is not likely to involve risks of traffic congestion, public safety or hazard.

(5) That the design or construction of any building or use will not be so markedly incongruous with the character of the neighborhood as to materially affect the value of adjacent or nearby property.

(6) All parts of all yards not used for off-street parking areas shall be adequately landscaped, subject to approval by the planning board, and maintained in good condition.

(7) All such parking areas shall be used only for the parking of automobiles. No commercial repair work or sales of any kind shall be conducted in any parking areas. No sign other than entrance, exit, identification and conditions-of-use signs shall be maintained in any parking area. No such sign shall be larger than four square feet in area. Nothing herein contained shall be construed to permit any required parking area to be used for the commercial storage of new or used motor vehicles by a new or used car dealer or motor vehicle rental agency.

(8) All parking areas and structures shall be provided with adequate means of ingress and egress which shall be kept open and unobstructed at all times and which shall be designed to provide service driveways or aisles to meet the following minimum standards.

Longitudinal (end to end) parking	12 foot width
30 degree angle parking	11 foot width
45 degree angle parking	13 foot width
60 degree angle parking	18 foot width
90 degree angle parking (open lot)	24 foot width

(9) Any part of any entrance to or exit from any parking areas shall be at least ten feet distant from any abutting property located in any residential zone.

(10) Any owners of property in the nonresidential zone districts may meet the required parking provisions of this chapter by participating in a joint parking program

involving two or more business uses; provided, that plans for such a joint program shall have been approved by the planning board; and provided further, that the area for the parking facilities shall equal the collective parking area requirements of the participating properties to be serviced. (G.O. 1185, § 1.)

Sec. 25-18. Deviations.

The rules, regulations and standards as set forth in this article shall be considered the minimum requirements for the protection of the public health, safety and welfare of the citizens of the town. 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 health, safety and welfare of the entire community. However, if the applicant or his agent can clearly demonstrate that, because of peculiar conditions pertaining to his land, the literal enforcement of one or more of these subdivision or site plan regulations shall exact undue hardship, the planning board may permit such deviation as may be reasonable and within the general purpose and intent of the rules, regulations and standards established by this article. The purpose of this section is to provide for deviation from the terms of this article and not from the terms of the town's zoning regulations. In making its findings, as required hereinbelow, the planning board shall take into account the nature of the proposed work and the existing use of land in the vicinity, the effect of the proposed deviation on the town's master plan, the number of persons to reside or work in the proposed subdivision or on site and the probable effect of the proposed application upon traffic conditions in the vicinity. No deviation shall be granted unless the planning board finds:

(a) That there are special circumstances or conditions affecting such property such that the strict application of the provisions of this article would deprive the applicant of the reasonable use of his land.

(b) That the deviation is necessary for the preservation and enjoyment of a substantial property right of the applicant.

(c) That the granting of the deviation will not be detrimental to the public health, safety and welfare or injurious to property in the area in which such property is situated.

A petition for any such deviation shall be submitted in writing by the applicant at the time the application is submitted. The petition shall state fully the grounds upon which the application is made and the facts upon which the applicant relies on the relief requested. The petition shall be heard and acted upon by the planning board as a whole, but no application involving a deviation shall be approved before receipt of the county planning board's report thereon, if required, or the expiration of the period of time within which such report is required to be submitted. If the planning board deems the proposed deviation of sufficiently serious nature, it may require additional public hearings to be held. If the planning board shall disapprove the proposed deviation, the reasons therefore shall be stated in its resolution and the applicant shall remedy said application prior to further consideration by the board. (G.O. No. 1185, § 1.)

Sec. 25-19. Sale of land before 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, such person shall be subject to a penalty not to exceed one thousand dollars, and each lot disposition so made may be deemed a separate violation.

In addition to the foregoing, the town may institute and maintain a civil action:

- (a) For injunctive relief; and
- (b) 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 section 44 of Public Laws 1975, chapter 291.

In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land, from which the subdivision was made that remains in the possession of the developer or his assigns or successors, to secure the return of any deposits made or purchase price paid, and also, a reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within two years after the date of the recording of the instrument of transfer, sale or conveyance of such land or within six years, if unrecorded. (G.O. No. 1185, § 1.)