

# **Chapter 104**

## **SUBDIVISION OF LAND**

### **GENERAL REFERENCES**

**Land use procedures — See Ch. 25.**

**Stormwater management — See Ch. 121.**

**Site plan review — See Ch. 97.**

**Zoning — See Ch. 123.**



## ARTICLE I

**Short Title; Purpose; Approving Agency****§ 104-1. Short title.**

This chapter shall be known and may be cited as the "Land Subdivision Ordinance of the Borough of Branchville."

**§ 104-2. Purpose.**

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

**§ 104-3. Approving agency.**

The approval provisions of this chapter shall be administered by the Borough of Branchville Planning Board in accordance with the provisions of N.J.S.A. 40:55D-1 et seq.



ARTICLE II  
**Definitions**

**§ 104-4. Definitions of terms.**

As used in this chapter, the following terms shall have the meanings indicated:

**COMPLETE APPLICATION** — An application form completed as specified by this chapter or any other applicable ordinance and the rules and regulations of the Planning Board, and all accompanying documents required by ordinance for approval of the application for development, including, where applicable, but not limited to, a site plan or subdivision plat; provided that the Planning Board or other reviewing municipal agency may require such additional information not specified in this chapter or any revisions in the accompanying documents as are reasonably necessary to make an informed decision as to whether the requirements 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. An application shall be certified as complete upon the meeting of all requirements specified in this chapter and in the rules and regulations of the municipal agency and shall be deemed complete as of the day it is so certified by the administrative officer of the Board for purposes of the commencement of the time periods for action by the Planning Board or other municipal agency. **[Added 11-18-1981 by Ord. No. 81-2P]**

**DRAINAGE RIGHT-OF-WAY** — The lands required for the installation of stormwater sewers or drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage in accordance with Chapter 1 of Title 58 of the Revised Statutes.<sup>1</sup>

**FINAL APPROVAL** — The official action of the governing body taken on a tentatively approved plat after all requirements, conditions, engineering plans, etc., have been completed and the required improvements have been installed or bonds properly posted for their completion. A plat that receives such final approval must have been prepared by a licensed professional engineer and a land surveyor in compliance with all the provisions of Chapter 358, Laws of 1953,<sup>2</sup> and is the map which must be filed with the county recorder within 90 days after such action in order to make the approval binding.

**FINAL PLAT** — The final map of all or a portion of the subdivision which is presented to the governing body for final approval in accordance with these regulations and which, if approved, shall be filed with the proper county recording officer.

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1. Editor's Note: Currently, see N.J.S.A. 58:1A-1 et seq.

2. Editor's Note: Currently, see N.J.S.A. 46:23-9.9 et seq.

GOVERNING BODY — The Mayor and Borough Council of the Borough of Branchville.

LOT — A designated parcel, tract or area of land established by plat or otherwise as permitted by law and to be used, developed or built upon as a unit.**[Amended 11-18-1981 by Ord. No. 81-2P]**

MAJOR SUBDIVISION — All subdivisions not classified as a minor subdivision.

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 the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.**[Amended 11-18-1981 by Ord. No. 81-2P]**

MINOR SUBDIVISION — The division of a tract of land meeting one or more of the following conditions:**[Amended 11-18-1981 by Ord. No. 81-2P]**

- A. The division of a parcel of land for the purpose of enlarging an adjoining lot, notwithstanding that such existing lot, together with the added portion, still does not meet the requirements of the Zoning chapter<sup>3</sup> or this chapter, wherein the remaining parcel is not in conflict with the Zoning chapter nor is its future use or development adversely affected.
- B. The division of a tract of land into not more than three lots, including the remainder of the tract being subdivided, wherein all such lots or parcels shall meet all of the following requirements:
  - (1) Such lots are not in conflict with the Zoning chapter, Master Plan or Official Map.
  - (2) All lots front on an existing street, as defined in this chapter, which is of the width shown on the Master Plan and which is improved sufficiently to meet all requirements of N.J.S.A. 40:55D-35 so that a building permit could be issued to construct a building on each lot.
  - (3) No new streets or roads are involved. If the complete development of the remaining lot or parcel, as permitted by the Zoning chapter, would require a new road or roads, subsequent subdivision of the remaining lot or parcel shall be accepted only as a major subdivision.
  - (4) Curbs, sidewalks and other improvements required in Article V are either in existence or the lots are located in a developed area where such improvements would normally be installed by the Borough either as a general improvement or by assessment against benefiting property owners.
  - (5) The resulting lots are suitable for their intended purpose without the necessity of making unusual changes in grades of the lots.

- (6) The creation of the lots shall not produce a drainage problem or result in the necessity for drainage improvements or any other type of off-tract improvement.
- (7) The creation of the lots shall not adversely affect the uniform and comprehensive development of any remaining parcel of adjoining land in terms of:
  - (a) Suitable future road access and desirable future road and lot patterns.
  - (b) Future water and sanitary sewer utility installations and storm drainage improvements.
- (8) The subdivision does not involve a planned development.
- (9) The subdivision does not involve the extension of any off-tract improvement, the cost of which is to be prorated pursuant to N.J.S.A. 40:55D-42.
- (10) Notwithstanding the foregoing, not more than two lots plus a remainder shall be created by minor subdivision. Subsequent subdivision of the remaining lot or parcel within two years from the date of the filing of the subdivision in the County Clerk's office shall be accepted only as a major subdivision.

OFFICIAL MAP — A map adopted by ordinance pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. **[Amended 11-18-1981 by Ord. No. 81-2P]**

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

PERFORMANCE GUARANTY — Any security which may be accepted in lieu of a requirement that certain improvements be made before the Planning Board or other approving body approves a plat, including performance bonds, escrow agreements and other similar collateral or surety agreements.

PLAT — The map of a subdivision.

PRELIMINARY APPROVAL — The conferral of certain rights pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., prior to final approval, after specific elements of a development plan have been agreed upon by the Planning Board and the applicant. **[Amended 11-18-1981 by Ord. No. 81-2P]**

PRELIMINARY PLAT — A map indicating the proposed layout of the subdivision which is submitted to the Planning Board for preliminary consideration and discussion.

SKETCH PLAN — The sketch map of a subdivision of sufficient accuracy to be used for the purpose of discussion and classification.

STREET — Any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing state, county or Borough roadway, or a street or way shown upon a plat heretofore approved pursuant to law or approved by official action, or a street or way on a plat duly filed and recorded in the office of the county recording officer prior to the appointment of a Planning Board and the grant to such Board of the power to review plats, and includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas and other areas within the street lines. For the purpose of this chapter, streets shall be classified as follows:

- A. ARTERIAL STREETS — Those which are used primarily for fast or heavy traffic.
- B. COLLECTOR STREETS — Those which carry traffic from minor streets to the major system of arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development.
- C. MINOR STREETS — Those which are used primarily for access to the abutting properties.
- D. MARGINAL ACCESS STREETS — Streets which are parallel to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.
- E. ALLEYS — Minor ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.
- F. CUL-DE-SAC — A street providing ingress and egress from and to an area within the same right-of-way and commonly known as a "dead-end" street.

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

SUBDIVISION — 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: **[Amended 11-18-1981 by Ord. No. 81-2P]**

- A. Divisions of land if found by the Planning Board or Subdivision Committee thereof appointed by the Chairman to be for agricultural purposes where all resulting parcels are five acres or larger in size.
- B. Divisions of property by testamentary or intestate provisions.
- C. Divisions of property upon court order, including but not limited to judgments of foreclosure.

- D. Consolidation of existing lots by deed or other recorded instrument.
- E. The conveyance of one or more adjoining lots, tracts or parcels of land owned by the same person or persons and all of which are found and certified by the administrative officer to conform to the requirements of the municipal development regulations and are shown and designated as separate lots, tracts or parcels on the Tax Map or Atlas of the municipality.

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, and having such other duties relating to land subdivision as may be conferred on this Committee by the Board.



ARTICLE III  
**Procedure**

**§ 104-5. Submission of minor subdivision plat.**

- A. Any owner of land within the Borough of Branchville shall, prior to subdividing or resubdividing his land, as defined in this chapter, submit to the Secretary of the Planning Board at least 14 days prior to the regular meeting of the Board an original and two copies of the minor subdivision application, together with eight copies of the proposed minor subdivision plat. If the applicant does not intend to file a map in the County Clerk's office with regard to the proposed subdivision, the applicant shall also file a proposed deed of the lots in the subdivision containing a legal description of the lots that the applicant proposes to create. In addition, the applicant shall file a copy of the subdivision application and at least two copies of the subdivision plat with the County Planning Board and furnish proof of filing with the Secretary of the Branchville Planning Board. **[Amended 11-5-1969 by Ord. No. 103; 11-18-1981 by Ord. No. 81-2P]**
- B. If classified as a minor subdivision by the Subdivision Review Committee, a notation to that effect will be made upon the plat. The plat will then be considered as a minor subdivision by the Planning Board. If the subdivision is approved, the plat shall be signed by the Chairman and Secretary of the Planning Board. A deed memorializing the subdivision shall be signed by the Chairman and Secretary, upon the request of the applicant, provided it is submitted in proper form. **[Amended 11-18-1981 by Ord. No. 81-2P]**
- C. Before the Municipal Clerk returns any approved subdivision plat to the subdivider, the Clerk shall have sufficient copies made to furnish one copy to each of the following: **[Amended 11-18-1981 by Ord. No. 81-2P]**
- (1) Municipal Clerk.
  - (2) Municipal Engineer.
  - (3) Building Inspector or Zoning Officer.
  - (4) Tax Assessor.
  - (5) Secretary of the Planning Board.
  - (6) County Planning Board.
- The cost of the copies will be charged to the subdivider and shall be collected before the return of the original subdivision plat to the subdivider.
- D. Either a deed description or plat map drawn in compliance with the Map Filing Act, N.J.S.A. 46:23-9.9 et seq., shall be filed by the subdivider with the county recording officer within 190 days from the

date of municipal approval; otherwise the subdivision approval shall expire. **[Amended 11-18-1981 by Ord. No. 81-2P]**

- E. If the plat is classified as a major subdivision, a notation to that effect shall be made on the plat, which will be returned to the subdivider for compliance with the procedure in § § 104-6 and 104-7 of this article.

**§ 104-6. Submission of preliminary plat of major subdivision.**

- A. At least eight black-on-white prints of the preliminary plat map, together with three completed application forms for preliminary approval, shall be submitted by the owner, properly signed as being the person or subdivider seeking approval, or by his agent acting for and with the consent of the owner, to the Municipal Clerk 14 days prior to the Planning Board meeting at which consideration is desired. At the time of filing, a fee of \$10 per lot for the first 25 lots and \$5 per lot for all other lots, with the minimum fee being \$50, shall be paid to the Municipal Clerk. The Municipal Clerk shall immediately notify the Secretary of the Planning Board upon receipt of a preliminary plat. **[Amended 11-5-1969 by Ord. No. 103; 11-18-1981 by Ord. No. 81-2P]**
- B. The applicant shall give notice of the application and shall also publish notice of the same as required in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the Land Use Procedures Ordinance of the Borough of Branchville.<sup>4</sup> **[Amended 11-18-1981 by Ord. No. 81-2P]**
- C. Copies of the preliminary plans shall be forwarded by the Secretary of the Planning Board prior to the hearing to the following persons:
- (1) Secretary of County Planning Board.
  - (2) Municipal Engineer.
  - (3) Secretary of Board of Health.
  - (4) Such other municipal, county or state officials as directed by the Planning Board.
- D. The Planning Board shall act on the preliminary plat within the time period specified in the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and the Land Use Procedures Ordinance of the Borough of Branchville. In all cases the recommendations of the County Planning Board shall be given careful consideration in the final decision of the Borough Planning Board. Approval of the subdivision shall be conditioned upon the approval of the County Planning Board. The applicant shall be notified of the action of the Borough Planning Board within the time period specified by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. **[Amended 11-18-1981 by Ord. No. 81-2P]**

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4. Editor's Note: See Ch. 25, Land Use Procedures.

- E. Preliminary approval shall confer upon the applicant the rights set forth in N.J.S.A. 40:55D-49. **[Amended 11-18-1981 by Ord. No. 81-2P]**

**§ 104-7. Improvements or guaranties prior to final approval.**

Before consideration of a final subdivision plat, the subdivider will have installed the improvements required under Article V or the Planning Board shall require the posting of adequate performance guaranties to assure the installation of the required improvements.

**§ 104-8. Submission of final plat of major subdivision.**

- A. The final plat shall be submitted to the Secretary of the Planning Board for final approval within three years from the date of tentative or preliminary approval. The Planning Board shall act upon the final plat within 45 days after the date of submission of a complete application for final approval. **[Amended 11-18-1981 by Ord. No. 81-2P]**
- B. The original tracing, one translucent tracing cloth copy, two cloth prints, 10 black-on-white prints and three copies of the application form for final approval shall be submitted to the Secretary of the Planning Board at least 14 days prior to the date of a regular Planning Board meeting. Unless the preliminary plat is approved without changes, the final plat shall have incorporated all changes or modifications required by the Planning Board. **[Amended 11-18-1981 by Ord. No. 81-2P]**
- C. The final plat shall be accompanied by a statement by the Municipal 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 subdivider has complied with one or both of the following: **[Amended 11-18-1981 by Ord. No. 81-2P]**
- (1) Installed all improvements in accordance with the requirements of these regulations; or
  - (2) Posted a performance guaranty with the Municipal Clerk in sufficient amount to assure the completion of all required improvements.
- D. Any plat which requires County Planning Board approval pursuant to N.J.S.A. 40:27-12 shall be forwarded by the applicant to the County Planning Board for its action prior to final approval. **[Amended 11-18-1981 by Ord. No. 81-2P]**
- E. The Planning Board shall act upon the application for final subdivision approval within a time allowed by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq. **[Amended 11-18-1981 by Ord. No. 81-2P]**
- F. Failure of the Planning Board to act within the allotted time or a mutually agreed upon extension shall be deemed to be favorable approval and the Municipal Clerk shall issue a certificate to that effect. **[Amended 11-18-1981 by Ord. No. 81-2P]**

- G. If any person shall be aggrieved by the action of the Planning Board, appeal in writing to the governing body may be taken within 10 days after the date of the action of the Planning Board. A hearing thereon shall be had on notice to all parties in interest, who shall be afforded an opportunity to be heard. After such hearing, the governing body may affirm or reverse the action of the Planning Board by a recorded vote of a majority of the total members thereof. The findings and reasons for the disposition of the appeal shall be stated on the records of the governing body, and the applying party shall be given a copy.
- H. Upon final approval, copies of the final plat shall be filed by the Planning Board with the following: **[Amended 11-18-1981 by Ord. No. 81-2P]**
- (1) Municipal Clerk.
  - (2) Municipal Engineer.
  - (3) Building Inspector.
  - (4) Tax Assessor.
  - (5) County Planning Board.
- I. The final plat, after final approval by the Planning Board, shall be filed by the subdivider in the Sussex County Clerk's office within 95 days from the date of signing of the plat. For good cause shown, the Planning Board may extend the period for recording for an additional period not to exceed 190 days from the signing of the plat. If any plat has not been filed as aforesaid, the approval shall expire. **[Amended 11-18-1981 by Ord. No. 81-2P]**
- J. No plat shall be accepted for filing by the County Clerk unless it has been duly approved by the Planning Board of the Borough of Branchville and signed by the Chairman and Secretary. **[Amended 11-18-1981 by Ord. No. 81-2P]**

ARTICLE IV  
**Plat Details**  
**[Amended 11-18-1981 by Ord. No. 81-2P]**

**§ 104-9. Minor subdivision plat.**

The minor subdivision plat shall be based on Tax Map information, at a scale of not less than one inch equals 100 feet, prepared and certified to by a professional engineer or licensed land surveyor and complying with all other requirements of the Map Filing Law, if applicable, to enable the entire tract of which the subdivision is a part to be shown on one sheet, and which shows or includes the following information:

- A. The entire tract from which a portion is to be subdivided, and the location of the subdivided portion in relation to the entire tract.
- B. All existing structures and general outlines of wooded areas within the portion to be subdivided and within 200 feet thereof, and their distances from existing and proposed property lines.
- C. The names of the owners of all adjoining property as disclosed by the most recent Borough tax records.
- D. The Tax Map sheet, block and lot numbers.
- E. All streets or roads and streams within 200 feet of the subdivision, as well as ponds and other natural features.
- F. Sketch of the proposed layout of streets, lots and other features in relation to the existing conditions within the subdivision.
- G. A North arrow and scale.
- H. The location and size of all drainage structures.
- I. A metes and bounds designation of the entire tract and new lines sought to be established and any plat lines to be eliminated to be indicated.
- J. The area of the entire tract, the area and width of the lot sought to be created at the street line and the road frontage of the remaining portion.
- K. The name of street and the width of right-of-way on which the property fronts.
- L. The names of all abutting owners and their tax lot and block designations according to the latest rolls of the municipality; the name and address of the owner, subdivider; date of latest revision and number of new lots sought to be created.
- M. Projects that meet the definition of "major development" as defined in Chapter 121, Stormwater Management, shall comply with all standards

set forth in Chapter 121, Stormwater Management. **[Added 3-15-2006 by Ord. No. 3-2006]**

**§ 104-10. Major subdivision preliminary plat. [Amended 9-2-1987 by Ord. No. 9-87]**

The preliminary plat shall be clearly and legibly drawn or reproduced at a scale of not less than one inch equals 100 feet. Preliminary plats shall be designed and drawn by a licensed New Jersey land surveyor or professional qualified civil engineer. The plat shall be designed in compliance with the provisions of Article VI and shall show or be accompanied by the following information:

A. A key map showing the following:

- (1) The entire tract clearly delineated by cross-hatching, shading or other appropriate means, distinguishing it from adjoining lands.
- (2) The lot or lots being subdivided clearly delineated by cross-hatching, shading or other appropriate means, and distinguishing them from the remainder of the entire tract being subdivided.
- (3) Adjoining properties.
- (4) The Tax Map lot and block designation of the subject premises and of adjoining lands.
- (5) The street on which the subdivision is located, including a state or county route number and the common road name.
- (6) The scale of the key map portion of the subdivision plat shall be not less than one inch equals 400 feet.
- (7) Reference meridian.

B. A title block containing the following information shall be inserted on the plat:

- (1) Tract name.
- (2) Tax map sheet.
- (3) Block and lot number.
- (4) Date.
- (5) Reference meridian.
- (6) Graphic scale.
- (7) Name and address of record owner or owners.
- (8) Name and address of subdivider.
- (9) Name and address of person who prepared map.

- C. Acreage of tract to be subdivided, to nearest tenth of an acre.
- D. Sufficient elevations or contours to determine the general slope and natural drainage of the land and the high and low points, and center-line profiles showing proposed finished grade for all proposed new streets.
- E. The location of existing and proposed property lines, streets, buildings, watercourses, railroads, bridges, culverts, drainpipes 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 system. 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 developer shall have percolation tests 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 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 protective covenants or deed restrictions applying to the land subdivided shall be submitted with the preliminary plat.
- H. Environmental impact statement, if required by the reviewing municipal body, in accordance with requirements determined by the Planning Board.
- I. When an individual water supply and/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 developer shall have a percolation test made on each lot by an engineer licensed in the State of New Jersey, uniformly spaced, and submit the results, in writing, signed and sealed by the engineer, with the preliminary plat. Said tests shall be taken within the building setback lines of each lot. Such tests must meet the requirements and standards established by the State Department of Environmental Protection. Any subdivision or part thereof which does not meet with the established requirements of this chapter shall not be approved. Any remedy proposed to overcome a deficiency shall first be approved by the appropriate local, county or state health agency.
- J. Recycling. Each major subdivision proposed for the creation of 50 or more lots to be utilized for the construction of 50 or more units of single-family residential housing shall include separate specific facilities for the separation, collection, storage and pickup of recyclable materials. The provisions of the Branchville Borough Recycling

Ordinance<sup>5</sup> shall be complied with. **[Added 12-7-1988 by Ord. No. 10-88]**

- K. Projects that meet the definition of "major development" as defined in Chapter 121, Stormwater Management, shall comply with all standards set forth in Chapter 121, Stormwater Management. **[Added 3-15-2006 by Ord. No. 3-2006]**

**§ 104-11. Major subdivision final plat. [Amended 9-2-1987 by Ord. No. 9-87]**

The final plat shall be drawn in ink on tracing cloth at a scale of not less than one inch equals 100 feet and in compliance with all provisions of Chapter 358 of the Laws of 1953.<sup>6</sup> The final plat shall show or be accompanied by the following:

- A. Date, name and location of the subdivision, name of owner, 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 with accurate dimensions, bearings or deflection 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 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 unsubdivided land.
- H. Certification by engineer or surveyor as to accuracy of details.
- I. Certification that the applicant is agent or owner of the land or that the owner has given consent under an option agreement.
- J. Approval of any application shall be conditioned on certification by the Sussex County Soil Conservation District of a plan for soil erosion and sediment control pursuant to the provisions of N.J.S.A. 4:24-39 et seq.
- K. Plans for water mains showing their exact locations; plans and profiles of storm and sanitary sewers.
- L. Certificate from Tax Collector that all taxes are paid to date.

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5. Editor's Note: See Ch. 94, Recycling.

6. Editor's Note: Currently, see N.J.S.A. 46:23-9.9 et seq.

- M. Restrictive covenant regarding underground utilities in accordance with the prevailing standards and practices of the utility or other companies providing such services.
- N. Scale shall be not less than one inch equals 100 feet and in compliance with the provisions of N.J.S.A. 46:23-9.9 et seq.



ARTICLE V  
**Improvements**  
**[Amended 11-18-1981 by Ord. No. 81-2P]**

**§ 104-12. Letters required prior to final approval.**

Prior to final approval, the Planning Board shall have received the following:

- A. A letter from the applicant's engineer or surveyor containing a list of all items to be covered by a performance guaranty, cash or certified check, the quantities of each item, the cost of each of them and the total amount of all items.
- B. A letter from the Borough Engineer stating that the required improvements have been installed to his satisfaction and in accordance with applicable Borough specifications and that the performance guaranty is adequate to cover the cost of remaining improvements.
- C. A letter from the applicant's engineer stating that the final plat conforms to the preliminary plat as submitted and approved.

**§ 104-13. Improvements required.**

Prior to granting of final approval, the subdivider shall have installed the following improvements, except as set forth in § 104-14 of this article:

- A. Streets, except the wearing course.
- B. Street signs.
- C. Curbs and gutters.
- D. Monuments, to be of the size and shape required by N.J.S.A. 46:23-9.4 and to be placed in accordance with the statute.
- E. Four-foot concrete sidewalks, with a minimum thickness of four inches. Sidewalks over driveway areas shall be constructed with a minimum thickness of six inches.
- F. Sanitary sewers and sewage disposal facilities, dry-cap sewer lines with appropriate taps, to be installed in accordance with specifications of the State Department of Health and the plans and specifications for which shall be approved by the Borough Engineer. Necessary auxiliary facilities shall also be installed by the subdivider where sewer lines are to be connected to an existing central sewer system.
- G. Connection of water service with that of the Borough of Branchville if in the opinion of the Borough Engineer it is feasible to use or connect with the water system of the Borough. All water mains and pipes within the development shall be furnished at the expense of the subdivider and constructed in accordance with plans to be first approved by the Borough Engineer.

- H. Culverts, inlets and storm sewers, to be installed where necessary, in the opinion of the Borough Engineer, based on conditions of topography and to adequately take care of the anticipated runoff from such subdivision.

**§ 104-14. Installation of improvements prior to final approval; bonding.**

- A. Before consideration of a final subdivision plat, the subdivider shall have installed all required improvements as specified in § 104-13 above of this chapter under the supervision and inspection of the Borough Engineer, except that the Borough Council may accept a performance guaranty approved by the Planning Board and its Attorney in an amount equal to 120% of the estimated cost of the improvement, of which 10% of the total amount shall be in cash or a certified check, for the later installation of the following improvements only:
- (1) The final surface course of the street pavement.
  - (2) Sidewalks.
  - (3) Monuments.
  - (4) Street signs.
  - (5) Shade trees.
- B. The installation of underground utilities, if required by law, shall be a condition of the issuance of a certificate of occupancy for any building constructed on the lots of the subdivision. Applicant shall file with the Board a letter from the utilities verifying that such installation has been properly completed, with a copy to the Borough Construction Official.
- C. The amount of the performance guaranty may be reduced or released in accordance with the provisions of N.J.S.A. 40:55D-53.
- D. The Planning Board may require the applicant to post a performance bond as a condition of preliminary approval of a major subdivision when the Board finds that the imposition of the same is required to promote or protect the general health, safety and/or welfare of the neighborhood and/or community.

ARTICLE VI  
**Design Standards**  
**[Amended 11-18-1981 by Ord. No. 81-2P]**

**§ 104-15. Compliance required.**

The subdivider shall observe the following requirements and principles of land subdivision in the design of each subdivision or portion thereof.

**§ 104-16. General standards. [Amended 5-2-1997 by Ord. No. 4-97]**

- A. Residential subdivisions. With respect to a proposed subdivision creating lots to be utilized for residential purposes, the subdivider shall comply with all design and site improvement standards set forth in the "New Jersey residential site improvements standards" set forth in N.J.A.C. 5:21-1.1 et seq. In the event of a conflict between the New Jersey residential site improvement standards contained in N.J.A.C. 5:21-1.1 and the standards contained in this chapter or any Borough ordinance, the standards contained in the New Jersey residential site improvement standards shall prevail.
- B. Nonresidential subdivisions. With respect to a proposed subdivision creating lots to be utilized for commercial, industrial or other nonresidential purpose, the subdivider shall conform with the design standards contained in all Borough ordinances, including, without limitation, the ordinances contained in this chapter.
- C. General standards. The subdivision plat shall conform to design standards that will encourage good development patterns within the Borough. Where either or both an Official Map or Master Plan has or have been adopted, the subdivider 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 the Map Filing Law, N.J.S.A. 46:23-9.9, and shall be such as to lend themselves to the harmonious development of the Borough and enhance the public welfare in accordance with the following design standards.

**§ 104-17. Streets.**

- A. With respect to a proposed subdivision creating lots to be utilized for residential purposes, the subdivider shall comply with the street right-of-way widths and street design standards contained in the New Jersey residential site improvement standards set forth in N.J.A.C. 5:21-1.1 et seq. **[Amended 5-2-1997 by Ord. No. 4-97]**
- B. With respect to a proposed subdivision creating lots to be utilized for commercial, industrial, or any other nonresidential purpose, the streets

shall be designed and constructed in accordance with the following standards: **[Amended 5-2-1997 by Ord. No. 4-97]**

- (1) Streets shall have a right-of-way width of 50 feet and shall be paved to a width of 26 feet. Pavement shall be constructed in accordance with the applicable specifications currently in effect as defined or established by the Highway Department of the State of New Jersey. Plans and paving specifications shall be submitted to the Borough Engineer and his approval shall be obtained prior to the commencement of construction.
  - (2) Minor streets shall be designed so as to discourage through traffic.
  - (3) The street right-of-way width shall be measured from lot line to lot line and shall not be less than 50 feet in width.
  - (4) Grades of all streets shall not exceed 10% without special approval of the governing body; however, in no event shall a grade exceed 15%. No street shall have a minimum grade of less than 1/2 of 1%.
  - (5) Street intersections shall be as nearly at right angles as is possible and in no case shall be less than 60°. The block corners at intersections shall be rounded with a curve having a radius of not less than 20 feet.
  - (6) Street jogs with center-line offsets of less than 75 feet shall be prohibited.
  - (7) A tangent at least 50 feet long shall be introduced between reverse curves on arterial and collector streets.
  - (8) When connecting street lines deflect from each other at any one point by more than 10° and not more than 45°, they shall be connected by a curve with a radius of not less than 100 feet for minor streets and 300 feet for arterial and collector streets.
  - (9) Culs-de-sac shall provide for a turnaround at the end with a radius of not less than 50 feet.
  - (10) Sight triangles for intersecting streets shall be in accordance with the requirements as set forth in the Land Development Standards of the County of Sussex, New Jersey.
  - (11) Any horizontal curves or change in direction other than any intersection shall have a minimum radius of 150 feet.
  - (12) All changes in grade shall be connected by various curves of sufficient radius to provide a smooth transition and proper sight distance.
- C. The street right-of-way width shall be measured from lot line to lot line and shall not be less than 50 feet in width.

- D. 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.
- E. 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 or both sides of said road. If the subdivision is along one side only, 1/2 of the required extra width shall be dedicated.
- F. Grades of all streets shall not exceed 10% without special approval of the governing body; however, in no event shall a grade exceed 15%. No street shall have a minimum grade of less than 1/2 of 1%.
- G. Street intersections shall be as nearly at right angles as is possible and in no case shall be less than 60°. The block corners at intersections shall be rounded with a curve having a radius of not less than 20 feet.
- H. Street jogs with center-line offsets of less than 75 feet shall be prohibited.
- I. A tangent at least 50 feet long shall be introduced between reverse curves on arterial and collector streets.
- J. When connecting street lines deflect from each other at any one point by more than 10° and not more than 45°, they shall be connected by a curve with a radius of not less than 100 feet for minor streets and 300 feet for arterial and collector streets.
- K. Culs-de-sac shall provide for a turnaround at the end with a radius of not less than 50 feet.
- L. Sight triangles for intersecting streets shall be in accordance with the requirements as set forth in the Land Development Standards of the County of Sussex, New Jersey.
- M. Any horizontal curves or change in direction other than any intersection shall have a minimum radius of 150 feet.
- N. All changes in grade shall be connected by various curves of sufficient radius to provide a smooth transition and proper sight distance.
- O. No street shall have a name which will duplicate or so nearly duplicate as to be confused with the names of existing streets. The continuation of an existing street shall have the same name.
- P. Design standards applicable to both residential and nonresidential subdivisions. The following standards shall apply to both residential and nonresidential subdivisions: **[Added 5-2-1997 by Ord. No. 4-97]**
  - (1) 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.

- (2) 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 or both sides of said road. If the subdivision is along one side only, 1/2 of the required extra width shall be dedicated.
- (3) No street shall have a name which will duplicate or so nearly duplicate as to be confused with the names of existing streets. The continuation of an existing street shall have the same name.

#### **§ 104-18. Blocks.**

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

#### **§ 104-19. Lots.**

- A. All lots shall be 100 feet or more in width, 150 feet or more in depth and 15,000 square feet or more in area. Measurements in case of curves and culs-de-sac shall be at the building line.
- B. Each lot shall provide a front yard of a depth of not less than 35 feet, a rear yard of a depth of not less than 35 feet and side yards of a width of not less than 15 feet.
- C. Insofar as practical, side lot lines shall be at right angles to straight streets and radial to curved streets.
- D. Each lot must front upon an approved street at least 50 feet in width.
- E. Where extra width has been dedicated for widening of existing streets, lots shall begin at such extra-width line and all setbacks shall be measured from such line.
- F. 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.

#### **§ 104-20. Public use and service areas.**

- A. 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.

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

**§ 104-20.1. Compliance with State Highway Access Management Code. [Amended 12-2-1998 by Ord. No. 4-98]**

Land adjacent to state highways shall be developed in conformity with the State Highway Access Management Code adopted by the Commissioner of Transportation, N.J.A.C. 16:47-1 et seq.; lands adjacent to county roads shall be developed in accordance with the County Access Management Code adopted pursuant to N.J.S.A. 27:16-1; and land abutting Borough roads shall comply with the requirements relating to access contained in Chapter 101 of the Branchville Borough Code.



## ARTICLE VII

**Required Off-Tract Improvements  
[Added 11-18-1981 by Ord. No. 81-2P]****§ 104-21. Applicable criteria.**

Pursuant to the provisions of N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-42, construction of or contributions for off-tract water, sewer, drainage and street improvements may be required in accordance with the following criteria:

- A. Improvements to be constructed at the sole expense of the applicant. In cases where reasonable and necessary need for an off-tract improvement or improvements is necessitated or required by the proposed development application and where no other property owners receive a special benefit thereby, the Planning Board shall require the applicant, as a condition of subdivision approval, at the applicant's sole expense, to provide for and construct such improvements as if such were on-tract improvements in the manner provided hereafter and as otherwise provided by law.
- B. Contributions by developer toward required off-tract improvements.
  - (1) In cases where the need for any off-tract improvement is necessitated by the proposed development application and where the Planning Board determines that properties outside the development will also be benefited by the improvement, such determination shall be made by the Planning Board in writing. Such resolution or determination of the Planning Board shall specify the off-tract improvements which are necessary and the terms and conditions which shall be imposed upon the applicant to ensure the successful and reasonable implementation of same. In its deliberation as to whether off-tract improvements are required, the Planning Board shall be guided by the rules and regulations specified in the Zoning chapter of the Borough<sup>7</sup>, this chapter and the Borough Master Plan. The Planning Board may be guided by counsel from the Planning Board Attorney, Engineer, any consultant and other qualified experts and Borough officials relative to the subject matter.
  - (2) In the event that the Planning Board determines that one or more improvements constitute an off-tract improvement, the Planning Board shall notify the Borough Council of the improvement, specifying the Board's recommendation relative to the estimated cost of same, the applicant's prorated share of the cost and possible methods or means to implement such cost, including but not limited to performance and maintenance guaranties, cash contributions, development agreements and other forms of surety.

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7. Editor's Note: See Ch. 123, Zoning.

- (3) The Planning Board shall not grant final approval on the subdivision until all aspects of such conditions have been mutually agreed by both the applicant and the Borough Council and a written resolution to that effect by the Borough Council has been transmitted to the Planning Board.

C. Methods of implementation.

- (1) Performance and maintenance guaranties. Where a performance or maintenance guaranty or other surety is required in connection with an off-tract improvement, the applicant shall be required to follow the same procedures and requirements as specified in this chapter for other improvements.
- (2) Development agreement. Where a development agreement is required governing off-tract improvements or other conditions as shall be required by this chapter or by the Planning Board, such agreement shall be approved as to form, sufficiency and execution by the Planning Board Attorney and, if required by the Borough Council, the Borough Attorney. The agreement shall specify the amount of cash contributions, if any, the method of payment, the relative timing of such payment and the obligation or obligations to be undertaken by the Borough.
- (3) Cash contributions: when not required. Cash contributions for off-tract improvements shall not be required under the following conditions:
  - (a) Where another county or state agency has jurisdiction over the subject improvement and requires a cash contribution, guaranty or other surety of the applicant in lieu of such conditions imposed by the Borough.
  - (b) Where a benefit assessment or other similar tax levy is imposed upon the applicant for the off-site improvement provided.
  - (c) Where the applicant, where legally permissible, can undertake the improvements in lieu of the Borough, subject to standards and other conditions as may be imposed by the Borough.
- (4) Cash contributions: method of payment. Where a cash contribution is required by this chapter, such contribution shall be deposited with the Treasurer of the Borough with a copy of the applicant's transmittal letter forwarded to the Borough Council, the Borough Engineer and the Planning Board. Any and all moneys received by the Treasurer shall be deposited in an escrow account for the purpose of undertaking the improvements specified. Where such improvements are not undertaken or initiated for a period of 10 years, the funds may be retained by the Borough and may be used for general Borough purposes, but in such event neither the applicant nor any of his heirs, executors, administrators or

grantees shall be liable to the Borough for any assessments for the purpose of installing any of the improvements for which such cash contribution was made.

- D. Pro rata formula for determining applicant's share of off-tract improvements. Where an off-tract improvement is required, the following criteria shall be utilized in determining the proportionate share of such improvement to the applicant:
- (1) Streets: circulation improvements. For street widening, alignment, corrections, channelization of intersections, construction of barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvements not covered elsewhere and the construction of new streets and other similar street or traffic improvements, the applicant's proportionate share shall be in the ratio of the estimated peak hour traffic generated by the proposed property or properties to the sum of the present deficiency in peak hour traffic capacity of the present facility and the estimated peak hour traffic generated by the proposed development. The ratio thus calculated shall be increased by 10% for contingencies.
  - (2) Water distribution facilities. For water distribution facilities, including the installation of new water mains, the extension of existing water mains, the relocation of such facilities and the installation of other appurtenances associated therewith the applicant's proportionate cost shall be in the ratio of the estimated daily use of water from the property and properties in gallons to the sum of the deficiency in gallons per day for the existing system or subsystem and the estimated daily use of water for the proposed development. The ratio thus calculated shall be increased by 10% for contingencies.
  - (3) Sanitary sewage distribution facilities. For sanitary sewage distribution facilities, including the installation, relocation or replacement of collector and interceptor sewers and the installation, relocation or replacement of other appurtenances associated therewith, the applicant's proportionate cost shall be in the ratio of the estimated daily flow in gallons to the sum of the present deficient capacity for the existing system or subsystem and the estimated daily flow from the proposed project or development. In the case where the peak flow period for the proposed development may occur during the peak flow period for the existing system, the ratio shall be the estimated peak flow rate from the proposed development in gallons per minute to the sum of the present peak flow deficiency in the existing system or subsystem and the estimated peak flow rate from the proposed development. The greater of the two ratios thus calculated shall be increased by 10% for contingencies and shall be the ratio used to determine the cost to the applicant.

- (4) Stormwater and drainage improvements. For stormwater and drainage improvements, including installation, relocation or replacement of transmission lines, culverts, catch basins and the installation, relocation or replacement of other appurtenances associated therewith, the applicant's proportionate cost shall be in the ratio of the estimated peak surface runoff as proposed to be delivered into the existing system, measured in cubic feet per second, to the sum of the existing peak flow in cubic feet per second deficient for the existing system and the estimated peak flow as proposed to be delivered. The ratio thus calculated shall be increased by 10% for contingencies. The applicant's engineer shall compute the drainage basin area and the area of the development and the percent of the total drainage basin area occupied by the development. Where no drainage system exists which will receive the flow of surface water from the applicant's development, the applicant shall furnish all drainage rights-of-way deemed to be necessary by the Planning Board.
- (5) General considerations. In calculating the proportionate or pro rata amount of the cost of any required off-tract facilities which shall be borne by the applicant, the Planning Board shall also determine the pro rata amount of cost to be borne by other owners of lands which will be benefited by the proposed improvements.

## ARTICLE VIII

**Penalties****[Amended 11-18-1981 by Ord. No. 81-2P]****§ 104-22. Violations and penalties.**

- A. If, before final approval has been obtained, any person transfers or sells or agrees to sell, as owner or agent, any land which forms a part of a subdivision on which, by ordinance, the Planning Board is required to act, such person shall be subject to a fine not to exceed \$1,000 and each parcel, plot or lot so disposed of shall be deemed a separate violation in accordance with the provisions of N.J.S.A. 40:55D-55.
- B. In addition to the foregoing, the Borough may institute and maintain a civil action:
  - (1) For injunctive relief.
  - (2) To set aside and invalidate any conveyance made pursuant to such a contract or sale if a certificate of compliance has not been issued in accordance with the provisions of N.J.S.A. 40:55D-56.
- C. 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 subdivider or his assigns or successors, to secure the return of any deposit made or purchase price paid, and also a reasonable search fee, survey expense and title-closing expense, if any.
- D. Any such action shall 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.



## ARTICLE IX

**Waivers****[Amended 11-18-1981 by Ord. No. 81-2P]****§ 104-23. Waiver of requirements.**

The Planning Board or Zoning Board, when acting upon applications for preliminary or final subdivision or site plan approval, shall have the power to grant such waivers from the requirements of this chapter as may be reasonable and within the general purpose and intent of this chapter where the literal enforcement of one or more of the provisions of this chapter is impracticable or will exact undue hardship because of particular conditions pertaining to the land in question. However, the Planning Board shall state its reasons for granting any such waiver in the resolution passed in connection with the application.



## ARTICLE X

**Appeals****§ 104-24. Appeals to governing body or to court.**

- A. If, after final approval of the plat has been granted, any person shall be aggrieved by such action of the Planning Board or the governing body, such person may appeal in writing to the governing body within 10 days after the date of the final approval. A hearing thereon shall be held on public notice published by the Municipal Clerk notifying all parties in interest, who shall be afforded an opportunity to be heard. After such hearing, the governing body may affirm or reverse the action of the Planning Board or its own action, as the case may be, by recorded vote of a majority of the total members thereof. The finding and reasons for the disposition of the appeal shall be stated on the records of the governing body, and the applying party shall be given a copy.
- B. 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.