

Title 16

LAND USE PROCEDURES

Chapters:

Chapter 16.04 GENERAL PROVISIONS

Sections:

16.04.010 Short title.

This title shall be known and may be cited as the "Land Use Procedures Ordinance of Freehold Borough." In applying the provisions of this chapter, as well as Titles 17 and 18, due consideration shall be given to the provisions of the Municipal Land Use Law, N.J.R.S. 40:55D-1, et seq., and its terms shall be applied as though set forth herein. In the event of any conflict, the statutory law shall control.

(Prior code § 17A-1)

16.04.020 Definitions of Terms.

Whenever a term is used in this title, which is defined in N.J.R.S. 40:55D-1 et seq., such term is intended to have the meaning set forth in the definition of such term found in the statute, unless a contrary intention is clearly expressed from the context of this title.

(Prior code § 17A-6.1)

16.04.030 Ordinances continued.

Pursuant to the provisions of N.J.R.S. 40:55D-1 et seq., the substantive provisions of the existing land subdivision title, Title 17 of this code, as supplemented and amended, and the zoning title as amended and supplemented, and the development regulations set forth therein shall continue in full force and effect and shall be read in para materia with this title.

(Prior code § 17A-6.2)

Chapter 16.08 PLANNING BOARD

Sections:

16.08.010 Establishment and composition.

- A. Establishment. There is hereby established, pursuant to N.J.S.A. 40:55D-23 et. seq., in the Borough of Freehold, a municipal planning board of nine members consisting of the following four classes:
1. Class I: The mayor or the mayor's designee in the absence of the mayor.
 2. Class II: One of the officials of the municipality other than a member of the governing body to be appointed by the mayor.

3. Class III: A member of the governing body to be appointed by the borough council.
 4. Class IV: Six citizens of the borough to be appointed by the mayor.
- B. Pursuant to N.J.S.A. 40:55D-25c and being that the Borough of Freehold is a municipality having a population of fifteen thousand (15,000) or less, the nine-member planning board shall exercise, to the same extent and subject to the same restrictions, all the powers of a board of adjustment; but the Class I and Class II members shall not participate in the consideration of applications for development which involve relief pursuant to subsection D. of section 57 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-70).
- C. Alternate Members.
1. The Mayor may appoint four alternate members who shall meet the qualifications of Class IV members of the nine-member planning board. Alternate members shall be designated at the time of appointment by the Mayor as "Alternate No. 1," "Alternate No. 2," "Alternate No. 3" and "Alternate No. 4." The terms of the alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than two alternates shall expire in any one year; provided, however, that in no instance shall the terms of the alternate members first appointed exceed two years. A vacancy occurring otherwise than by expiration of term shall be filled by the appointing authority for the unexpired term only.
 2. No alternate member shall be permitted to act on any matter in which the member has either directly or indirectly any personal or financial interest. An alternate member may, after public hearing if he requests one, be removed by the governing body for cause.
 3. Alternate members may participate in discussions of the proceedings but may not vote, except in the absence or disqualification of a regular member of any class, except that an alternate member may not vote in the place of a Class I or Class II member if that member is disqualified due to the application involving relief pursuant to subsection D. of Section 57 P.L. 1975, c. 291 (N.J.S.A. 40:55D-70). A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, Alternates shall vote in the order of their number.

(Ord. 2007/23 § 1: prior code § 17A-2.1)

(Ord. No. 2009/22, § I, 12-21-2009)

16.08.020 Terms.

The term of the member composing Class I shall correspond with his or her official tenure. The terms of the members composing Class II and Class III shall be for one year or terminate at the completion of their respective terms of office whichever shall occur first, except for a Class II member who is also a member of the environmental commission. The term of a Class II or a Class IV member who is also a member of the environmental commission shall be for three years or terminate at the completion of his or her term of office as a member of the environmental commission, whichever shall come first.

The term of a Class IV member who is also a member of the board of adjustment or the board of education shall terminate whenever he or she is no longer a member of such other body or at the completion of his or her Class IV term, whichever shall occur first.

The terms of all Class IV members first appointed pursuant to this title shall be so determined that to the greatest practicable extent the expiration of such terms shall be evenly distributed over the first four years after their appointments as determined by resolution of the borough council, provided that no term of any member

shall exceed four years and, further provided, that nothing herein shall affect the term of any present member of the planning board, each of whom shall continue in office until the completion of the term for which he or she was appointed. Thereafter all Class IV members shall be appointed for terms of four years except as otherwise herein provided. All terms shall run from January 1st of the year in which the appointment was made.

(Prior code § 17A-2.2)

16.08.030 Vacancies.

If a vacancy of any class shall occur otherwise than by expiration of term, it shall be filled by appointment as provided in Section 16.08.010 for the unexpired term.

(Prior code § 17A-2.3)

16.08.040 Organization of the board.

- A. The planning board shall elect a chairperson and vice-chairperson from the members of Class IV and select a secretary who may be either a member of the planning board or a borough employee designated by it.
- B. The chairperson may appoint a subdivision committee to be composed of five members of the board. The members so appointed shall serve until December 31st of the year in which they are appointed. Any vacancies on the subdivision committee shall be filled by the chairperson.

(Prior code § 17A-2.4)

16.08.050 Planning board attorney.

There is created the office of planning board attorney. The planning board may annually appoint, fix the compensation of or agree upon the rate of compensation of the planning board attorney who shall be an attorney other than the borough attorney.

(Prior code § 17A-2.5)

16.08.060 Experts and staff.

The planning board may also employ or contract for the services of experts and other staff and services as it may deem necessary. The board shall not however exceed, exclusive of gifts or grants, the amount appropriated by the borough council for its use.

(Prior code § 17A-2.6)

16.08.070 Powers and duties generally.

The board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this title. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the county and Municipal Investigations Law of 1953, N.J.R.S. 2A:67A-1, et seq., shall apply. It shall also have the following powers and duties:

- A. To make and adopt and from time to time amend a master plan for the physical development of the borough including any areas outside its boundaries, which, in the board's judgment, bear essential relation to the planning of the borough in accordance with the provisions of N.J.R.S. 40:55D-28;

- B. To administer the provisions of the land subdivision chapter and site plan review ordinance of the borough in accordance with the provisions of such ordinances and the Municipal Land Use Law, N.J.R.S. 40:55D-1 et seq.;
- C. To approve conditional use applications in accordance with the provisions of the zoning chapter pursuant to N.J.R.S. 40:55D-67;
- D. To participate in the preparation and review of programs or plans required by state or federal law or regulations;
- E. To assemble data on a continuing basis as part of a continuous planning process;
- F. To prepare annually a program of borough capital improvements projected over a term of six years, and amendments thereto, and recommend such to the borough council;
- G. To consider and make report to the borough council within thirty-five (35) days after referral as to any proposed development regulation submitted to it pursuant to the provisions of N.J.R.S. 40:55D-26(a), and also pass upon other matters specifically referred to the planning board by the borough council, pursuant to the provisions of N.J.R.S. 40:55D-26(b);
- H. When reviewing applications for approval of subdivision plats, site plans or conditional uses, to grant, to the same extent and subject to the same restrictions as the zoning board of adjustment, variances pursuant to N.J.R.S. 40:55D-70c from lot area, lot dimensional setback and yard requirements; provided, that such relief from lot area requirements shall not be granted for more than one lot.

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

- I. To perform such other advisory duties as are assigned to it by ordinance or resolution of the borough council for the aid and assistance of the borough council or other agencies or officers.

(Prior code § 17A-2.7)

16.08.080 Applications—Procedures for filing.

Application for development within the jurisdiction of the planning board, pursuant to the provisions of N.J.R.S. 40:55D-1, et seq., shall be filed with the secretary of the planning board. The applicant shall file, at least fourteen (14) days before the date of the monthly meeting of the board:

- A. Twelve (12) copies of a sketch plat;
- B. Twelve (12) copies of applications for minor subdivision approval;
- C. Twelve (12) copies of an application for major subdivision approval; or
- D. Twelve (12) copies of an application for site plan review, conditional use approval, or for variances.

At the time of filing the application, but in no event less than ten (10) days prior to the date set for hearing, the applicant shall also file all plot plans, maps or other papers required by virtue of any provision of this title or any rule of the planning board. The applicant shall obtain all necessary forms from the secretary of the planning board. The secretary of the board shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the board.

(Prior code § 17A-2.9)

16.08.090 Advisory committee.

The mayor may appoint one or more persons as a citizens' advisory committee to assist or collaborate with the planning board in its duties, but such person or persons shall have no power to vote or to take other action required of the board. Such person or persons shall serve at the pleasure of the mayor.

(Prior code § 17A-2.10)

16.08.100 Environmental commission.

Whenever the environmental commission has prepared and submitted to the planning board an index of the natural resources of the borough, the planning board shall make available to the environmental commission an informational copy of every application for development of the planning board. Failure of the planning board to make such informational copy available to the environmental commission shall not invalidate any hearing or proceeding.

(Prior code § 17A-2.11)

16.08.110 Rules and regulations.

The board shall adopt such rules and regulations or bylaws as may be necessary to carry into effect the provisions and purposes of this title. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of the county and Municipal Investigations Law of 1953, N.J.R.S. 2A:67A-1, et seq., shall apply.

(Prior code § 17A-2.12)

**Chapter 16.16 PROVISIONS APPLICABLE TO BOTH PLANNING BOARD AND
ZONING BOARD OF ADJUSTMENT**

Sections:

16.16.010 Applications generally.

- A. A development application may take the form of a request for site plan approval, conditional use approval, subdivision approval, variances from the standards of the zoning ordinances, other permits provided for in this title or a combination or any or all of the above.
- B. The municipal agency shall review each application for completeness at its first regular meeting after submission and if complete, shall set a public hearing date, if required, and so notify the applicant.

If an application for development is found to be incomplete, the developer shall be notified thereof within forty-five (45) days of the submission of each application or it shall be deemed to be properly submitted as of the forty-sixth (46th) day from the date of filling the application.

- C. Size of plats, design and engineering details, design criteria and other information to be contained on plats for preliminary and/or final approval, shall be in accordance with the provisions of this title, Titles 17 and 18 of this code and the terms of such ordinances, not inconsistent with the specific provisions of this title, are herein incorporated by reference.
- D. The municipal agency shall render a decision on each application within the time set forth in N.J.R.S. 40:55D-1, et seq., or within such further time as may be consented to by the applicant or its legal representative.

(Prior code § 17A-4.1)

16.16.015 Submission of sketch plats and conceptual site plans.

Prior to a preliminary submission, the applicant is encouraged to submit a sketch plan or a conceptual site plan for review and discussion with the planning board.

- A. Sketch Plat of a Major Subdivision. A sketch plat of any major subdivision may be submitted for informal, preparatory discussion before the preliminary plat is prepared. The sketch plat is designed to enable the Planning Board and the applicant to discuss and evaluate principles and potential problems involved before the applicant has gone to the expense of completing detailed engineering drawings as required for preliminary and final plats of major subdivisions. Preliminary stormwater runoff calculations shall be submitted with the sketch plat.
- B. Conceptual Site Plan. As an initial step, the applicant may submit a conceptual site plan for review by the planning board. The conceptual site plan is designed to enable the planning board and the applicant to discuss and evaluate principles and potential problems involved before the applicant has gone to the expense of completing detailed engineering drawings as required for the preliminary and final site plan. Preliminary stormwater runoff calculations shall be submitted with the conceptual site plan.

Conceptual review is intended to assist the applicant and shall not be construed as authorization for any construction, nor shall such action be considered an indication of any future actions by the board at the time of subsequent submissions. Conceptual review shall not be binding on either the board or the applicant.

(Ord. No. 2013/2, § 1, 4-15-13)

16.16.020 Meetings.

- A. Regular Meetings. Meetings of both the planning board and the zoning board of adjustment shall be scheduled no less often than once a month and any meeting so scheduled shall be held as scheduled unless cancelled for lack of applications for development to process.
- B. Special Meetings. Special meetings may be provided for at the call of the chairperson or on the request of any two board members. Such meeting shall be held on notice to its members and the public in accordance with all applicable legal requirements.
- C. Quorum Required. No action shall be taken at any meeting without a quorum being present.
- D. Majority Vote. All actions shall be taken by majority vote of a quorum except as otherwise required by any provision of N.J.R.S. 40:55D-1 et seq.
- E. Open to the Public. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements

of the Open Public Meetings Law, N.J.R.S. 10:4-1 et seq.

(Prior code § 17A-4.2)

16.16.030 Minutes.

Minutes of every regular or special meeting shall be kept and shall include the names and persons appearing and addressing the board, and of the persons appearing by attorney, the action taken by the board, the findings, if any, made by it and reasons therefor. The minutes shall thereafter be made available for public inspection during

normal business hours at the office of the borough clerk. Any interested party shall have the right to compel production of the minutes for use as evidence in any legal proceeding concerning the subject matter of such minutes. Such interested party may be charged a fee for reproduction of the minutes for his or her use as provided for in the rules of the board.

(Prior code § 17A-4.3)

16.16.040 Fees—Deposits and other charges.

- A. The applicant/developer shall, at the time of filing an application, pay a fee to the borough by cash, certified check, or money order in accordance with the fee schedules set forth hereinafter.
- B. Nonrefundable Fees — Schedule A. The fees set forth in Schedule A shall be nonrefundable and are for the purpose of offsetting in-house administrative, clerical and technical costs, exclusive of expenses for professional consultants, such as legal, planning, engineering and other professional fees, costs and expenses, except as otherwise noted in Schedule A. The fee to be paid shall be the sum of the fees for the component elements of the plat or plan. Proposals requiring a combination of approvals, such as subdivision, site plan and/or variances, shall require a fee equal to the sum of the fees for each element of the approval.
- C. Escrow Fees — Schedule B. The fees required by Schedule B shall be for the purpose of reimbursing the borough for direct fees, costs, charges and expenses of professional consultants retained by or on behalf of the borough, its boards, commissions or agencies in reviewing, testifying, and/or assisting commissions or agencies in reviewing, testifying, and/or assisting the borough in processing applications pursuant to the land use ordinance and/or assisting the borough in the evaluation, planning and proper design of municipal services and facilities in order to meet the needs of the proposed project. The fees required by Schedule B shall be deposited with the borough at the time the initial development documents are submitted and shall remain in an interest-bearing escrow fund. Whenever the amount of the fees paid to the borough pursuant to Schedule B, or any cash performance or maintenance guarantees posted with the borough by the applicant/developer, shall exceed five thousand dollars (\$5,000.00), the borough shall notify the applicant in writing of the name and address of the depository and the amount of the deposit. If the amount of interest earned on the cash deposit exceeds one hundred dollars (\$100.00) per annum, that entire amount shall belong to the applicant/developer and shall be refunded by the borough annually or at the time the deposit is repaid or applied to the purposes for which it was originally deposited, as the case may be, except that the borough may retain for administrative expenses not more than thirty-three and one-third (33- 1/3) percent of that entire interest amount. All costs, expenses, charges and fees incurred by the planning board, board of adjustment, borough, or other board, commission or agency of the borough, for the services of a planner, engineer, attorney or other professional consultant or expert incurred as a direct result of the developer's project shall be charged to this escrow fund.

Within forty-five (45) days after the filing of an application for development, the planning board and/or the board of adjustment, as the case may be, shall, in conjunction with appropriate representatives of the staff of the borough, review the application for development to determine whether the escrow amount set forth in Schedule B is adequate. In conducting such review, the board shall consider the following criteria:

- 1. The presence or absence of public water and/or sewer servicing the site;
- 2. Environmental considerations, including but not limited to geological, hydrological and ecological factors;
- 3. Traffic impact of the proposed development.

Upon completion of the review and within the forty-five (45) day period, the board shall adopt a resolution specifying whether the escrow amount specified above is sufficient, excessive or insufficient. In the event the

board shall determine that the amount is excessive, it shall, in the resolution, specify the amount that shall be deemed sufficient, including a specification, if appropriate, that no escrow be posted. In the event the board shall determine the amount specified above is insufficient, it shall so specify and shall set forth the amount required to be posted in the light of the criteria specified herein.

Prior to an application being determined complete, the applicant shall post the required escrow amount as set forth in Schedule B, or, if the reviewing board has passed a resolution as provided for above, the amount of escrow provided for by that resolution, with the borough clerk in the form of cash, certified check or money order.

If, during the pendency of an application, the amount of the escrow account has been depleted to twenty (20) percent of the original escrow amount, the borough clerk shall notify the appropriate board. The board shall again evaluate the application, as provided for above, and notify the borough clerk and applicant of any additional escrow deposit required. The applicant shall immediately deposit the additional escrow amount with the borough clerk and notify the appropriate board that the required deposit has been made. In the event that it is necessary for a board to take action on an application prior to the additional escrow deposit being made, an approval shall be conditioned upon the escrow deposit being made.

Upon request of an applicant, the borough clerk shall furnish the applicant with a statement of all disbursements made during the development review process.

All bills, invoices or vouchers submitted by professionals or experts relating to an application shall specify the services performed for the application.

Unit charges (i.e., per diem or hourly fees) of the professional or expert shall be in accordance with unit charges contracted for with the appropriate board or with the borough.

All escrow funds not expended shall be refunded to the applicant within sixty (60) days after the appropriate board has taken final action on an application, or after a withdrawal or dismissal of an application.

**Schedule A
Nonrefundable Fees**

a. Copy of Rules and Regulations	In accordance with N.J.S.A. 47:1A-2
b. Copy of Minutes	In accordance with N.J.S.A. 47:1A-2
c. Copy of Verbatim Transcript	At expense of requesting party
d. Copy of Decision	No charge to applicant, all others in accordance with N.J.S.A. 47:1A-2
e. Publication of Notice of any Decision (to be paid at time of application)	\$50.00
f. List of Property Owners within 200 feet or \$0.25 per name, whichever is greater	\$20.00
g. Minor Subdivision Approval	
1. Each informal review	No Fee
2. Application fee	\$100.00
3. Plat review fee	\$200.00
h. Major Subdivision Approval	
1. Each informal review	No Fee
2. Preliminary application fee	\$100.00
3. Preliminary plat review fee	\$200.00/lot
4. Final plat application fee	\$100.00
5. Final plat review fee	\$100.00/lot
i. Minor Site Plan Approval (less than 2,000 square feet of building area and five or fewer parking spaces)	

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1. Each informal review	No Fee
2. Application fee	\$100.00
3. Preliminary review fee	\$200.00
4. Final review fee	\$200.00
j. Waiver of Site Plan Detail Requests	\$250.00
k. Major Site Plan Approval (2,000 or more square feet of building area and/or more than five parking spaces)	
1. Each informal review	No Fee
2. Preliminary application fee	\$100.00
3. Preliminary approval review fees	
(a) Residential (including hotel, motel, multi-family, planned residential and community residence, but not including sheltered care, nursing home, or other medical/institutional uses) the sum of:	
(1) For each new dwelling unit	\$50.00
(2) For each remodeled, reconstructed, refurbished or rehabilitated dwelling unit	\$30.00
(3) For each new or additional parking space	
(i) First 100 spaces	\$25.00/space
(ii) Over 100 spaces	\$20.00/space
(b) Other Uses	
The sum of \$200.00, plus the sum of each of the following fees as applicable:	
(1) For each full 1,000 square feet of affected lot area (see s. below)	
(i) First 50,000 square feet	\$10.00/1,000 s.f.
(ii) Over 50,000 square feet	\$5.00/1,000 s.f.
(2) For each full 1,000 square feet of proposed new gross floor area plus	
(i) First 50,000 square feet	\$50.00/1,000 s.f.
(ii) Over 50,000 square feet	\$20.00/1,000 s.f.
(3) For each proposed new or additional parking space plus	
(i) First 100 spaces	\$20.00/space
(ii) Over 100 spaces	\$10.00/space
(4) For each 1,000 square feet of remodeled existing gross floor area plus	\$10.00/1,000 s.f.
(5) For each reconstructed, resurfaced or improved existing paved parking space	\$10.00/1,000 s.f.
4. Final application fee	\$200.00
5. Final approval review fees — 50 percent of fees for preliminary approval set forth above	
l. Variances	
1. Appeals (N.J.S.A. 40:55D-70(a))	
(a) Single-family residential uses	\$100.00
(b) Other	\$200.00
2. Interpretation of the Land Use Ordinance or Map (N.J.S.A. 40:55D-70(b)).	\$250.00
3. Hardship or bulk variance (N.J.S.A. 40:55D-70(c))	

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(a) Single-family residential uses	\$200.00
(b) Other	\$300.00
4. Use variance (N.J.S.A. 40:55D-70(d))	
(a) Proposed single-family residential uses	\$250.00
(b) Other uses	\$500.00
m. Conditional Uses	\$500.00
n. Public hearing fee for those development applications requiring notice of public hearing	\$100.00
o. Change of Master Plan or Zone District Request	
1. Single-family residential to other single-family residential	\$200.00
2. Single-family residential to multifamily commercial, industrial, office research, or other non-single-family zone	\$200.00 plus \$50.00/acre for each acre over 5 acres
p. Environmental Impact Statement (EIS)	
1. For those development applications which require review of an EIS	\$500.00
2. For request of waiver of Environmental Impact Statement	\$200.00
q. Legal Reviews	
1. Guarantee review	
(a) Review of performance guarantee by borough attorney	\$200.00 per review
(b) Review of maintenance guarantee by borough attorney	\$200.00 per review
2. Preparation of developer's agreement by borough attorney	\$500.00 per developer's agreement
3. Miscellaneous reviews—master deed, Certificate of Incorporation, Bylaws, Unit Deeds, etc.	\$250.00 per review
r. Inspection fees. When any development proposal approved by the municipal agency includes the construction of improvements, the developer, owner, or applicant shall pay to the borough, prior to the issuance of any development permit or the start of construction, a sum determined on the basis of the performance guarantee estimate as follows:	
	1. Seven percent of the amount of the performance guarantee estimate up to \$1,000,000.00; plus
	2. Five percent of the amount of the performance guarantee estimate between \$1,000,000.00 and \$5,000,000.00; plus
	3. Three percent of the amount of the performance guarantee in excess of \$5,000,000.00.
	Note: The minimum inspection fee shall be \$400.00.
s. Reproduction Fees and Tax Map Revision Fees	\$5.00 per sheet for the plat and attachments, except that the minimum fee shall be \$5.00. For reproduction, a fee of \$25.00 or \$4.00 per lot, whichever is greater, shall be charged for minor subdivisions and final plats of major subdivisions to cover the cost of the borough engineer for revisions of the borough of Freehold Tax Maps.
t. Revised Plats — Any proposed revisions to a plat, including all supporting maps and documents, previously approved by	

the planning board or board of adjustment, which approval is still in effect, shall require submission of a revised plat and payment of fees in accordance with the following:

1. Where changes in the plat are requested by the planning board or borough engineer, no fees need be paid and only sufficient copies of the plat incorporating the changes as may be necessary for distribution.
2. Where there are only minor changes in the plat proposed by the applicant or required by another governmental agency where approval was a condition of the planning board or board of adjustment approval, which do not involve any additional building or parking or significant change in the design of the site or subdivision, an application and application fee of \$50.00 will be required along with sufficient copies of the plat incorporating the changes as may be necessary for distribution.
3. Where there are changes in the plat proposed by the applicant, or required by another governmental agency whose approval was a condition of the planning board or board of adjustment approval, which involve additional building or parking or a significant change in the design of the site or subdivision, an application and application fee equal to one-half the fee required for the initial submission, will be required along with sufficient copies of the plat incorporating the changes as may be necessary for distribution.
4. Where the proposed changes involve a change in use and/or major alteration of the design concepts of the plat approved by the planning board, it shall be considered a new application and shall require the full payment of fees as set forth in this chapter for new applications for development.
5. Where revisions in the plat only involves additional information required as a condition of a previous approval, no additional fees shall be required.

u. Requests for Reapproval or Extensions of Time Where No Change is Required

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| 1. Minor subdivision — reapproval only | \$200.00 |
| 2. Major subdivisions and site plans | \$400.00 |
| 3. Other applications for development (soil removal, etc.) | \$100.00 |

v. Site Plan Charges Computation

In cases where only a portion of a parcel or site are to be involved in the proposed site plan, the site area charge shall be based upon an area extending

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	20 feet outside the limits of all construction, including grading and landscaping, as well as all other areas of the site the borough engineer believes are reasonably affected by the development application. The 20 feet around the disturbed area shall not extend beyond the property lines. The borough may still require reasonable improvements and upgrading to portions of the site not within the disturbed or affected area.
w. Zoning Permit	\$50.00
x. Sign Appeals	\$100.00
y. Review of Sales Map	\$450.00
z. Street Signs	Actual Cost
aa. Review by Technical Review Committee Prior to Formal Application	\$100.00/session

**Schedule B
Escrow Fees**

Residential Development	Escrow to be Posted
Minor Subdivision	\$1,500.00
Major Subdivisions	
0—5 units or lots	\$2,500.00
6—25 units or lots	\$3,000.00
26 or more units or lots	\$7,000.00

Site Plan Application

Not Involving Structures

Acres	Escrow to be Posted
0—3	\$5,000.00
3+	\$8,000.00

Site Plan Application

Involving Structures

Total Floor Plan	Escrow to be Posted
1,250—1,999 square feet	\$2,000.00
2,000—20,000 square feet	\$4,000.00
20,000+ square feet	\$8,500.00
Variance - Use/Bulk	\$2,500.00

Minimum escrow for those applications

not governed by other escrow amounts

Interpretations/Sign Applications	\$500.00
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**Any action requiring a written resolution
by the reviewing board**

Conditional Use

\$1,000.00

(Ord. 33/98; prior code § 17A-4.4; Ord. No. 2012/17, § 1, 12-17-12)

16.16.050 Hearings.

- A. Rules. The planning board and the zoning board of adjustment shall make rules governing the conduct of hearings before such bodies which rules shall not be inconsistent with the provisions of R.S. 40:55D-1 et seq., or of this title.
- B. Oaths — Subpoenas for Witnesses. The officer presiding at the hearing or such person as he or she may designate shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties. The provisions of the county and Municipal Investigations Law, R.S. 2A:67A-1 et seq., shall apply.
- C. Testimony. The testimony of all witnesses relating to an application for development shall be taken under oath or affirmation by the presiding officer and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and the number of witnesses.
- D. Evidence. Technical rules of evidence shall not be applicable to the hearing, but the board may exclude irrelevant, immaterial or unduly repetitious evidence.
- E. Records. Each board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at his or her expense.

(Prior code § 17A-4.5)

16.16.060 Notice requirements for hearing.

Whenever a hearing is required on an application, except for applications for site plan approval, minor subdivision or final approval of major subdivision, the applicant shall give notice thereof as follows:

- A. Public Notice. Public notice shall be given by publication in the official newspaper of the borough at least ten (10) days prior to the date of the hearing.
- B. Owners of Adjacent Property. Notice shall be given to the owners of all real property as shown on the current tax duplicate or duplicates located within two hundred (200) feet in all directions of the property which is the subject of such hearing and whether located within or without the municipality in which the applicant's land is located. Such notice shall be given by:
 - 1. Serving a copy thereof on the owner as shown on the current tax duplicate or his or her agent in charge of the property; or
 - 2. Mailing a copy thereof by certified mail to the property owner at his address as shown on the current tax duplicate. A return receipt is not required.

Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice-president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.

- C. Adjoining Municipality. Notice of all hearings on applications for development involving property located within two hundred (200) feet of an adjoining municipality shall be given by personal service or certified mail to the clerk of such municipality. Such notice shall be in addition to the notice required to be given pursuant to subsection B of this section to the owners of lands in such adjoining municipality which are located within two hundred (200) feet of the subject premises.
- D. County Planning Board. Notice shall be given by personal service or certified mail to the county planning board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the official county map or on the county master plan, adjoining other county land or situate within two hundred (200) feet of a municipal boundary.
- E. Commissioner of Transportation. Notice shall be given by personal service or certified mail to the commissioner of transportation of a hearing on an application for development of property adjacent to a state highway.
- F. Director of Division of State and Regional Planning. Notice shall be given by personal service or certified mail to the director of the division of state and regional planning in the department of community affairs of a hearing on an application for development of property which exceeds one hundred fifty (150) acres or five hundred (500) dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the borough clerk, pursuant to R.S. 40:55D-12g.
- G. Proof of Service. All notices hereinabove specified in this section shall be given at least ten (10) days prior to the date fixed for hearing and the applicant shall file an affidavit of proof of service with the board holding the hearing on the application for development.
- H. Completion by Certified Mail. Any notice made by certified mail as hereinabove required shall be deemed complete upon mailing in accordance with the provisions of R.S. 40:55D-14.
- I. Form of Notice. All notices required to be given pursuant to the terms of this title shall state:
 - 1. The date, time and place of the hearing;
 - 2. The nature of the matters to be considered;
 - 3. The identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the borough tax assessor's office;
 - 4. The location and times at which any maps and documents for which approval is sought are available as required by law.

(Prior code § 17A-4.6)

16.16.070 List of property owners furnished.

Pursuant to the provisions of R.S. 40.55D-12.C, the administrative officer of the planning board or zoning board of adjustment shall, within seven days after receipt of a request therefor, make and certify a list from the current tax duplicate of names and addresses of owners to whom the applicant shall be required to give notice, pursuant to Section 16.16.060(B) of this chapter and R.S. 40.55D-12. A sum not to exceed twenty five cents (\$0.25) per name, or ten dollars (\$10.00) whichever is greater, may be charged for such list.

(Ord. 29/96: Ord. 28/96: prior code § 17A-4.7)

16.16.080 Decisions.

- A. Board Resolution. Each decision on any application for development shall be set forth in writing as a resolution of the board which shall include findings of fact and legal conclusions based thereon.
- B. Copies of the Decision. A copy of the decision shall be:
 - 1. Mailed by the board within ten (10) days of the date of decision to the applicant, or if represented, then to his or her attorney, without separate charge;
 - 2. Mailed also to all persons who have requested it and who have paid the fee prescribed by the board for such service;
 - 3. Filed in the office of the borough clerk, who shall make a copy of such filed decision available to any interested party upon payment of a fee calculated in the same manner as those established for copies of other public documents in the borough.

(Prior code § 17A-4.8)

16.16.090 Publication of decision.

A brief notice of every final decision shall be published in the official newspaper of the borough. Such publication shall be arranged by the applicant and proof of such publication returned to the secretary of the planning board or the zoning board of adjustment, as the case may be. The notice shall be sent to the official newspaper for publication within ten (10) days of the date of any such decision.

(Prior code § 17A-4.9)

16.16.100 Payment of taxes.

Pursuant to the provisions of R.S. 40:55D-65, every application for development submitted to the planning board or to the zoning board of adjustment shall be accompanied by proof that no taxes or assessments for local improvements, water or sewer, are due or delinquent on the property which is the subject of such application; or, if it is shown that taxes or assessments are delinquent on such property, any approvals or other relief granted by either board shall be conditioned upon either the prompt payment of such taxes or assessments, or the making of adequate provision for the payment thereof in such manner that the borough shall be adequately protected.

(Prior code § 17A-4.10)

16.16.110 Conflicts of interest.

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

(Prior code § 17A-4.11)

16.16.120 Exceptions.

The municipal agency, when acting upon applications for preliminary, major or minor subdivision approval or preliminary site plan approval, shall have the power to grant such exceptions from the requirements for subdivision and/or site plan approval as may be reasonable and within the general purpose and intent of the provisions for subdivision and/or site plan review and approval set forth in Titles 17 and 18 of this code, if the literal enforcement of one or more provisions of these ordinances are impractical or will exact undue hardship because of peculiar conditions pertaining to the land in question.

(Prior code § 17A-4.12)

Chapter 16.20 IMPROVEMENT GUARANTEES

Sections:

16.20.010 Guarantees required—Surety—Inspection fees—Release.

Whenever guarantees are required by a municipal agency pursuant to the applicable ordinances of the borough, the following provisions shall apply:

- A. Before a final plat is signed and sealed by the municipality, and before the applicant records a final subdivision plat, or as a condition of final site plan approval or as a condition to the issuance of a zoning permit, the municipal agency shall require and shall accept in accordance with the standards adopted by this title for the purpose of assuring the installation and maintenance of all required improvements:
 1. The furnishing and filing with the borough clerk, of a performance guarantee in an amount of one hundred twenty (120) percent of the estimated cost for installation of improvements as determined by the borough engineer, that the municipal agency may deem necessary or appropriate including: streets, grading, pavement, gutters, curbs, sidewalks, street lighting, shade trees, surveyors monuments (as shown on the final map and required by the "Map Filing Law"), water mains, culverts, storm sewers, sanitary sewers, or other means of sewage disposals, drainage structures, erosion control and sedimentation control devices, public improvements of open space and, in the case of site plans only, other on-site improvements and landscaping;
 2. A commitment for a maintenance guarantee to be posted in favor of the borough for a period not to exceed two years after final acceptance of the improvements, in an amount not to exceed fifteen (15) percent of the as-built cost of the improvements;
 3. Such performance and maintenance guarantees may be in one or a combination of the following forms:
 - a. Performance and/or maintenance bonds written by financially responsible bonding or surety companies maintaining an office in the State of New Jersey and acceptable to the borough,
 - b. Certified checks for deposit made payable to the borough,
 - c. Cash deposits (except that cash deposits shall not be allowed for maintenance guarantees), not exceeding ten (10) percent of the amount of the bond, or
 - d. Other types of escrow or security approved by the Freehold Borough attorney.

The performance and maintenance guarantees, and any agreements related thereto shall be approved by the borough attorney as to form, sufficiency and execution prior to acceptance by the borough clerk.

Notwithstanding the above, ten (10) percent of the performance bond must be either cash or certified check for deposit by the borough, and the term of the performance bond or bonds shall be determined by the borough engineer based upon the complexity of, and the expected time to complete the project and all improvement related thereto;

4. The amount of the performance guarantees may be reduced by the borough council by resolution, upon request of an applicant, when portions of the improvements have been certified by the borough engineer as having been completed and installed in accordance with the Freehold Borough ordinances, and inspected by the borough engineer. Such reduction of the performance guarantee amount shall not be deemed a waiver of any rights that the borough has pursuant to the maintenance guarantees, nor shall it be construed as acceptance of the improvements by the municipality unless specifically recommended by the borough engineer and dedication of the improvements is accepted by the borough;
 5. In the event that other governmental agencies or governmental public utilities automatically shall own the utilities to be installed upon completion and acceptance, or the improvements are covered by a performance or maintenance guarantee to another governmental agency or utility, no performance or maintenance guarantee, as the case may be, shall be required by the municipality for such specific utilities or improvements;
 6. Upon request of an applicant, the time periods allowed for installation of improvements may be extended, in whole or in part, by resolution of the borough council, but only after the borough council has received a recertification from the borough engineer as to the cost of the improvements to be extended, and the applicant has posted performance guarantees acceptable to the borough attorney in an amount equal to one hundred twenty (120) percent of the recertified cost and time extension in a form acceptable to the borough attorney.
- B. If the required improvements are not completed or corrected in accordance with the performance guarantee or the improvements installed are not maintained and repaired satisfactorily in accordance with the maintenance guarantee, the obligor and surety, if any, shall be jointly and severally liable thereon to the borough for the reasonable costs of the improvements not completed or corrected, and the borough may either prior to or after the receipt of the proceeds thereof, complete such improvements at the cost and expense of the obligor and surety.
- C. When all of the required improvements have been completed, the obligor shall notify the borough council in writing, by certified mail addressed in care of the borough clerk, of the completion of the improvements and shall send a copy thereof to the borough engineer. Thereupon the borough engineer shall inspect all of the improvements and shall file a detailed report, in writing, with the governing body, indicating either approval, partial approval or rejection of the improvements with a statement of reasons for any rejection. If partial approval is indicated, the cost of the improvements rejected shall be set forth.
- D. The borough council shall either approve, partially approve or reject the improvements on the basis of the report of the borough engineer and shall notify the obligor in writing, by certified mail, of the contents of the report and the action of the approving authority with relation thereto, not later than sixty-five (65) days after receipt of the notice from the obligor of the completion of the improvements. Where partial approval is granted, the obligor shall be released from all liability pursuant to its performance guarantee, except for that portion adequately sufficient to secure provision for the

improvements not yet approved. Failure of the borough council to send or provide such notification to the obligor within sixty-five (65) days shall be deemed to constitute approval of the improvements and the obligor and surety, if any, shall be released from all liability, pursuant to such performance guarantee.

- E. If any portion of the required improvements are rejected, the approving authority 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.
- F. The maintenance guarantee period shall commence as to each improvement installed, upon the date that the borough council takes action specifically approving the installation of the improvement or the date of failure to notify the applicant as contained in subsection D of this section.
- G. At the time that the original performance guarantee and commitment for maintenance guarantee are filed by the applicant with the borough clerk, the applicant shall tender to the borough clerk cash or a certified check, made payable to the borough, in the amount estimated by the borough engineer to be required to reimburse the borough for the cost of the borough engineer's inspection and/or supervision of the installation of improvements. In the absence of an estimate of fees being made by the borough engineer, the amount to be deposited by the applicant shall be five percent of the amount of the performance guarantee. If, at any time during the construction of the improvements or before the performance guarantee is released, the borough engineer certifies to the borough council that the fees deposited are inadequate to reimburse the borough for the cost of inspection and supervision, the borough council shall notify the obligor and surety of the amount of additional fees to be deposited and the performance guarantee shall not be released until such fees are paid by the applicant to the borough clerk.

(Prior code § 17A-5A)

Chapter 16.24 SITE PLAN REVIEW AND APPROVAL

Sections:

16.24.010 When required.

- A. Site plan review and approval shall be required before:
 - 1. Any change of use which would impact or have an effect on parking requirements, or
 - 2. Any of the following actions taken in contemplation of or in preparation for the development of land for any use or purpose not specifically exempted herein:
 - a. Excavation
 - b. Removal of soil
 - c. Clearing of site
 - d. Modifying the natural condition of any land
 - e. Placing of any fill on the land
 - f. Addition, elimination or reconfiguration of parking area or traffic circulation
 - g. Increase in impervious coverage

- B. Except as hereinafter provided, no building or zoning permit shall be issued for any building or use or structure, or reduction or enlargement in size or other alteration of any building or structure or change in use of any building including accessory structures and outdoor storage and sales areas or when any such renovation or change in use will affect any of the site plan elements enumerated in subsections 16.24.020(C)(9) through (24) inclusive unless a site plan is first submitted and approved by the planning board, and no certificate of occupancy shall be given unless all construction and development conforms to the plans as approved by the planning board.
- C. Site plan approval shall not be required for any detached one- or two-dwelling unit buildings or any uses accessory thereto, such as a private garage or storage shed incidental to residential uses, but this shall not limit the requirements for submission and approval of plats as otherwise required by chapter.
- D. The planning board or zoning board may waive full site plan detail approval as a precondition to issuance of a building permit if the construction, alteration, change of occupancy or use does not affect existing traffic circulation, on-site or off-site drainage facilities, the relationship of buildings to each other on site, landscaping, buffering, lighting or other considerations relating to site plan review and approval as set forth hereinafter.

(Prior code § 19A-1)

(Ord. No. 2014/14, § 1, 12-1-14)

16.24.020 Preliminary approval application details.

- A. All applications for preliminary site plan review shall consist of fifteen (15) copies of a completed site plan information form, fifteen (15) copies of site plan maps drawn as specified in this chapter and the appropriate fee required.
- B. All site plan maps shall be drawn and certified by a New Jersey licensed professional engineer, land surveyor or architect at a scale not smaller than one inch equals fifty (50) feet and not larger than one inch equals ten (10) feet.
- C. All maps submitted for site plan review shall contain the following information:
 - 1. Name, address and title of person preparing site plan;
 - 2. Name and address of applicant;
 - 3. Name and address of the owner of the land;
 - 4. The municipal tax map lot and block numbers of the lot or lots shown on the site plan and the tax sheet number or numbers;
 - 5. Key map;
 - 6. A date, scale and north arrow on each sheet of the site plan;
 - 7. The zoning district or districts in which the lot or lots are located;
 - 8. If the site plan includes more than one sheet, each sheet shall be numbered and titled;
 - 9. The location of all existing watercourses, wood areas, easements, rights-of-way, streets, roads, highways, freeways, railroads, canals, rivers, buildings, structures or any other feature if such feature has an affect upon the use of the property;
 - 10. The location of all existing and proposed landscaped areas and all existing trees over six-inch caliper;

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11. The location, use, finished grade level and ground area of each existing and proposed building, structure, or any other land use, including all setback dimensions;
12. The location, names and widths of all existing and proposed streets (including cross sections and profiles) abutting the lot or lots in question and within two hundred (200) feet of the lot;
13. 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;
14. The capacity of proposed off-street parking areas and location of all off-street parking spaces;
15. The location and size of proposed loading berths;
16. The location and treatment of existing and proposed entrances and exits to public rights-of-way, including the possible utilization of traffic signals, channelization, acceleration and deceleration lanes, additional width and any other device necessary to traffic safety and/or convenience;
17. The location, size and nature of all existing and proposed rights-of-way, easements and other encumbrances which may affect the lot or lots in question and the location, size and description of any lands to be dedicated to the municipality or the county of Monmouth;
18. Interior traffic circulation;
19. Exterior lighting of parking, loading and driveway areas;
20. The location and identification of proposed open spaces, parks or other recreation areas;
21. The location and design of buffer areas and screening devices to be maintained;
22. Existing topography based upon New Jersey Geodetic Control Survey datum and proposed grading both with a maximum of two-foot contour intervals;
23. The location, type and size of all existing and proposed catch basins, storm drainage facilities and utilities, plus all required design data supporting the adequacy of the existing or proposed facility to handle future storm flows;
24. All existing and proposed signs and lighting standards, utility poles and their size, type, construction and location and water supply and sewage disposal systems. Applicants proposing signs which do not conform to Chapter 15.16 of this code and seeking a design waiver for such signs pursuant to Section 15.16.030 (H) may have such appeal processed as a part of the site plan application and the determination made simultaneously with the board's disposition of the site plan application, provided that such applicant submits all necessary sign appeal application forms and pays all sign appeal application fees;
25. All existing property lines adjoining the tract and all lines within two hundred (200) feet of the boundary lines of the major tract and the name of the owner of each property;
26. The location, size and nature of the entire lot or lots in question and any contiguous lots 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;
27. Complete construction specifications to include description, materials and method of construction for all required improvements shall be submitted with all site plan applications. A schedule of events and time sequence shall also be submitted for all required improvements. A preconstruction conference shall be required, prior to the construction of any required improvements between the owner, contractor and engineer and shall be a condition of any approval;

28. Preliminary architectural plans for the proposed buildings or structures indicating typical floor plans, elevations, height and general design or architectural styling. Such plans shall include the name, address and title of the person preparing the plans;
 29. Any other information required by the planning board or the Monmouth County planning board which is reasonably necessary to ascertain compliance with the provisions of this chapter or other federal, state, county or municipal laws, rules or regulations.
- D. An applicant seeking site plan review may request waiver from compliance with the above-enumerated map requirements. The request, however, must specify in writing the items the applicant wishes to delete and must be submitted to the planning board prior to the initial submission of the preliminary application. The planning board may, in its discretion, grant such waiver.
- E. All applications for site plan approval shall be submitted to the county planning board for its review and recommendations and, where applicable, approval. The applicant shall furnish proof of such submission at the time of the submission of his or her application to the municipal reviewing board by presenting a copy of his or her site plan with an indication from the county that it has been filed with them. Any application for site plan approval shall not be deemed complete in the absence of proof that it has been filed with the county planning board. If the county planning board has failed to grant or deny approval of the site plan at the time of preliminary approval of the applicant's application, such preliminary approval shall be conditioned on approval of said site plan by the county planning board.
- F. No application for site plan approval shall be deemed complete in the absence of proof that a plan for soil erosion and sedimentation control has been submitted to the relevant reviewing authority, pursuant to the requirements of N.J.S.A. 4:24-39 et seq. or proof that such a plan is not required by said statute for the particular application. If the reviewing authority has failed to grant or deny certification of the erosion plan at the time of preliminary approval of the applicant's site plan, preliminary approval shall be conditioned on certification of the applicant's erosion plan.

(Prior code § 19A-2)

16.24.030 Design criteria.

- A. In reviewing any site plan, the board shall consider the following:
1. Pedestrian and vehicular traffic movement within and adjacent to the site, with particular emphasis on the provision and layout of parking areas, off-street loading and unloading, movement of people, goods and vehicles from access roads, within the site, between buildings and between buildings and vehicles. The planning board shall ensure that all parking spaces are usable and are safety and conveniently arranged. Access to the site from adjacent roads shall be designed so as to interfere as little as possible with traffic flow on these roads and to permit vehicles a rapid and safe ingress and egress to the site.
 2. The design and layout of buildings and parking areas shall be reviewed so as to provide an aesthetically pleasing design and efficient arrangement. Particular attention shall be given to safety and fire protection, impact on surrounding development and contiguous and adjacent buildings and lands.
 3. Adequate lighting shall be provided to ensure safe movement of persons and vehicles and for security purposes. Lighting standards shall be of a type approved by the planning board. Directional lights shall be arranged so as to minimize glare and reflection on adjacent properties.
 4. Buffering shall be located around the perimeter of the site to minimize the effect of headlights of vehicles, noise, light from structures, the movement of people and vehicles and to shield activities from

- adjacent properties when necessary. Buffering may consist of fencing, evergreens, shrubs, bushes, deciduous trees or combinations thereof to achieve the stated objectives.
5. Landscaping shall be provided as part of the overall site plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping shall include trees, bushes, shrubs, ground cover, perennials, annuals, plants, sculpture, art and the use of building and paving materials in an imaginative manner.
 6. Signs shall be designed so as to be aesthetically pleasing and harmonious with other signs on the site and shall be located so as to achieve their purpose without constituting hazards to vehicles and pedestrians.
 7. Storm drainage, sanitary waste disposal, water supply and garbage disposal shall be reviewed and considered. Particular emphasis shall be given to the adequacy of existing systems, and the need for improvements, both on-site and off-site, to adequately carry runoff and sewage and to maintain an adequate supply of water at sufficient pressure.
 8. Garbage disposal shall be adequate to ensure freedom from vermin and rodent infestation. All disposal systems shall meet municipal specifications as to installation and construction.
 9. Environmental elements relating to soil erosion, preservation of trees, protection of watercourses and resources, noise, topography, soil and animal life shall be reviewed and the design of the plan shall minimize any adverse impact on these elements.
 10. Off-street parking spaces shall be provided as specified in this chapter, and shall be furnished with necessary passageways and driveways. All off-street parking spaces and stalls required pursuant to the terms of this chapter shall have the following dimensions: nine feet by eighteen (18) feet and in the case of parking spaces for handicapped vehicles twelve (12) feet by eighteen (18) feet. All off-street parking space shall be deemed to be required space on the lot on which it is situated, and shall not be encroached upon or reduced in any manner. All parking areas, passageways and driveways (except when provided in connection with one-family residences) shall be paved in accordance with borough standards and shall be subject to approval by the borough engineer. Parking spaces shall be laid out so that vehicles may be turned on the premises and so that it shall not be necessary to back any vehicle into any public street.
 11. None of the off-street parking facilities as required in this chapter shall be required for any existing building or use, unless the building or use shall be enlarged, in which case the provisions of this chapter shall apply only to the enlarged portion of the building or use.
 12. A site plan shall be filed with the zoning permit application where off-street parking facilities are required or permitted under the provisions of this chapter in connection with the use or uses for which application is being made. Such off-street parking space shall be provided within five hundred (500) feet of the building which it is intended to serve. In such case of off-lot parking, the parent lot and the parking lot shall be owned by the same individual in fee simple, and a covenant running with the land shall be recorded with the county clerk specifying that neither lot may be separately sold or encumbered.
 13. Unless otherwise provided, the minimum front or side yard required under Schedule I shall not be used for off-street parking.
 14. The collective provision of off-street parking areas by two or more buildings or uses located on adjacent lots is permitted, provided that the total of such facilities shall not be less than the sum required of the various buildings or uses computed separately, and further provided that the land upon which the collective facilities are located is owned or leased by one or more of the collective users.

15. Except for residential use in the R-10, R-7, R-S and R-4 districts, all off-street parking space shall be provided with curbing or the equivalent so that vehicles cannot drive onto required landscaped areas, and screen planting of a dense evergreen material not less than four feet or more than six feet in height shall be provided in any locations where lights from vehicles within the off-street parking area may shine directly into windows of adjacent residential buildings. However, in lieu of such screen planting, a wooden fence of woven lattice or louvre type or split cedar with a maximum of three-quarter inch spacing shall be provided not less than four feet nor more than six feet in height.
16. All parking areas and appurtenant passageways and driveways serving commercial uses shall be illuminated adequately during the hours between sunset and sunrise when the use is in operation. Adequate shielding shall be provided by commercial uses to protect adjacent premises from the glare of such illumination and from that of automobile headlights.
17. Off-street parking areas which provide parking for twenty (20) or more vehicles shall be provided with shade trees of a type approved by the shade tree commission. The shade trees shall be located in a planned manner within the parking lot area in quantity equal to not less than one shade tree for every ten (10) parking spaces.
18. Sidewalks shall be required on both sides of the street in all areas, except streets where governmental regulations deny access to pedestrians, or on streets within new major subdivisions, residential or nonresidential, in which case sidewalks shall be constructed on one side of the street only.

However, the planning board may waive the sidewalk construction requirement where, in its opinion, it is in the best interest of the borough. Upon granting such a waiver, the developer shall be required to pay to the Borough of Freehold an amount equal to sixty (60) percent of the reasonable cost of installing said sidewalk, said amount to be determined by the borough engineer upon submission and consideration of various estimates and other documentation from the developer, other interested parties and the borough engineer. All funds collected by the borough from developers as a result of sidewalk waivers granted in accordance with this section shall be maintained in a sidewalk construction account, the proceeds of which shall be available to install sidewalks throughout the borough where and as authorized by the mayor and council. Nothing contained herein shall affect the right of the borough to enact ordinances for assessments for sidewalks from property owners as authorized under N.J.S.A. 40:65-2 or pursuant to other ordinances in the Borough of Freehold.

- B. In reviewing site plan applications, the planning board shall also consider the proposed site development's conformity to the master plan.
- C. Exception to Application for Site Plan Regulations. The planning board, when acting upon applications for preliminary site plan approval, shall have the power to grant such exceptions from the requirements for site plan approval as may be reasonable and within the general purpose and intent of this chapter, if the literal enforcement of one or more provisions of this chapter is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question.

(Prior code § 19A-3)

(Ord. No. 2013/2, § 1, 4-15-13; Ord. No. 2014/7, § 1, 6-2-14)

16.24.040 Grant of preliminary approval.

The planning board shall grant preliminary approval to site plan applications if it determines that the site plan application complies with the applicable statutes, laws, regulations and ordinances of the state of New Jersey, county of Monmouth, borough of Freehold, if it is complete in all detail requirements as specified above, and if the planning board is satisfied that the application satisfies the criteria set forth in this chapter.

Preliminary approval of a site plan shall confer upon the applicant the following rights for a three-year period from the date of the preliminary approval:

- A. That the general terms and conditions on which preliminary approval was granted shall not be changed, including but not limited to use requirements; layout and design standards for streets, curbs and sidewalks; lot size; yard dimensions; off-tract improvements; natural resources to be preserved on the site; vehicular and pedestrian circulation, parking and loading; screening, landscaping and location of structures; and exterior lighting, both for safety reasons and street lighting, except that nothing herein shall be construed to prevent the municipality from modifying by ordinance such general terms and conditions of preliminary approval as relate to the public health and safety;
- B. That the applicant may submit for final approval on or before the expiration date of preliminary approval the whole or a section or sections of the preliminary site plan;
- C. That the applicant may apply for and the reviewing 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.

(Prior code § 19A-4)

16.24.050 Final approval.

Pursuant to N.J.S.A. 40:55D-46, site plan review is a two-step process. It is the intent and purpose of this chapter to allow the planning board to fully evaluate all development applications at the preliminary stage so as to enable the applicant to expeditiously correct plan deficiencies and proceed to final approval.

- A. Final approval shall be granted if and when the plans and specifications submitted by the applicant are satisfactory to the planning board and are in compliance with the applicable ordinances and codes of the borough.
- B. Final approval may be granted on the same date as preliminary approval if the planning board determines that the original plans are satisfactory and do not require modification or revision.
- C. Final approval shall be granted or denied within forty five (45) days after submission of a complete application to the secretary of the reviewing board, or within such further time as may be consented to by the applicant. Failure of the reviewing board to act within the period prescribed shall constitute final approval of the application for final approval as submitted and a certificate of the secretary of the reviewing board as to failure of the reviewing board to act shall be issued on request of the applicant, and it shall be sufficient in lieu of the written endorsement or other required evidence of approval.
- D. All maps submitted for final approval must incorporate all changes, modifications and recommendations suggested by the planning board at the preliminary approval stage. All maps so submitted must also contain:
 - 1. A place for the signature of the chairperson and secretary of the planning board as certifying approval of the plan and the date thereof;
 - 2. A statement to be signed by the applicant's engineer or architect indicating that the project has been completed in compliance with the site plan. This statement must be executed upon completion of the project;

3. A statement to be signed by the municipal engineer subsequent to final inspection of the completed project indicating that the project has been built in compliance with the site plan maps and resolution.

(Prior code § 19A-5)

16.24.060 Public hearing.

A public hearing shall be held on all applications for site plan approval involving uses which, pursuant to the provisions of this chapter, require ten (10) or more off-street parking spaces. Site plan applications which require fewer than ten (10) off-street parking spaces shall be classified as "minor site plans" pursuant to N.J.S.A. 40:55D-5 and do not require public hearings.

(Prior code § 19A-6)

16.24.070 Valuation, assessments and taxation.

Prior to approval of all site applications, the applicant must submit proof that no taxes or assessments for local improvements are due or delinquent on the subject premises.

(Prior code § 19A-7)

Chapter 16.24A PLOT PLAN REQUIRED

Sections:

16.24A.010 When required.

- A. All applications for a building permit for new construction that are not otherwise subject to review by the borough engineer shall be required to submit a plot plan including topography and grading. Such plot plan must be approved by the engineer prior to the issuance of a building permit.
- B. All applications for a building permit for additions to existing buildings that are not otherwise subject to review by the borough engineer shall, in the discretion of the construction official, submit a plot plan including topography and grading. The construction official shall determine whether the extent of the improvement or addition will affect the drainage, runoff or grading of the property. If the construction official determines that the project will have an affect on drainage, runoff or grading, he or she shall require the applicant to submit a plot plan as set forth in this section to be approved by the engineer prior to the issuance of a building permit.
- C. Upon completion of the dwelling or improvement, the borough engineer shall certify that the site plan has been followed. This certification shall be forwarded to the construction official prior to issuance of a certificate of occupancy.

(Ord. 2004/14 § 1 (part))

16.24A.020 Fee.

All applications subject to plot plan review by the borough engineer shall submit an escrow fee in the amount of five hundred dollars (\$500.00). The borough engineer will bill against the escrow account and any remainder shall be returned to the applicant. In the event any retaining walls, storm sewer or other items are proposed, the borough engineer will advise the applicant of any additional review fees.

Freehold, New Jersey, Code of Ordinances
Title 16 LAND USE PROCEDURES

(Ord. 2004/14 § 1 (part))