Ordinance # 2011-19

An Ordinance of the Township Committee of the Township of Ocean, County of Ocean, State of New Jersey, Establishing Chapter 16.21 of the Codified Ordinances of the Township of Ocean to be entitled "Off-Tract Improvement Requirements" for Subdivision and/or Site Plans.

Be it ordained by the Township Committee of the Township of Ocean, County of Ocean, State of New Jersey as follows:

SECTION I.

Chapter 16 of the Codified Ordinances of the Township of Ocean shall be amended to include therein a new sub-section to be designated as Chapter 16.21 and entitled "Off Tract Improvements" for applications before the Planning Board and Board of Adjustment.

A. General Requirements:

1. As a condition of a final subdivision and/or site plan approval, or any amended subdivision or site plan approval, the municipal agency (i.e. either the Ocean Township Planning Board or Board of Adjustment) may require an applicant to either install, or pay, his pro rata share of the costs of providing necessary circulation improvements, water, sewerage, drainage facilities, any other public improvement or facilities (i.e. public recreation, public buildings, public equipment) including land and easements and all items necessary to administer and maintain the Township's public

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functions, located off tract of the property limits of the subdivision or site plan, but which are necessitated or required by the development. "Necessary" improvements are those clearly and substantially related to the development in question.

2. Whether the municipal agency has previously determined that such off tract improvements are required, it shall be a condition of the granting of final approval or any amended approvals thereof, that such improvements be constructed or that the developer shall make payments toward the ultimate installation of off tract improvements, such as but not limited to streets, curbs and gutters, sidewalks, watermains, sanitary sewers, storm sewers and culverts, monuments, street lights, all in accordance with the specifications governing on tract improvements.
3. The improvement and or widening of a stream or the construction of drainage or other improvements in a street or road fronting on the tract to be subdivided, improved and/or developed shall not constitute an off tract improvement and the cost of said improvement shall not be allotted but shall instead remain the responsibility of the applicant/developer.
4. In addition to any other requirements of this ordinance, in all major subdivisions, the developer shall be required to post an off-tract assessment in the amount of $500.00 per lot to be used for the purchase of stormwater collection and disposal system maintenance equipment to be used in the area containing the subdivision.

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B. Cost Allocation:

1. Full allocation. In cases where off tract improvements are necessitated by the proposed development, and where no other property owner or owners receives a special benefit thereby, the applicant may be required, at its sole cost and expense, and as a condition of approval, to provide and install such improvements.

2. Proportionate Allocation.

a. Where it is determined that properties outside the development will also be benefited by the off tract improvement, the following criteria shall be utilized in determining the proportionate share of the cost of such improvements to the developer.

1. The appropriate land use agency may consider the total cost of the off tract improvements, the benefits conferred upon the site or subdivision, the needs created by the site or subdivision, population and land use projections for the general areas of the site or subdivision and other areas to be served by the off-tract improvements, the estimated times of construction of off-tract improvements and the condition and periods of usefulness, which periods may be based upon the criteria of N.J.S.A. 40A:2-22. The Land Use Agency may further consider the criteria set forth below.

i. Road, curb, gutter and sidewalk improvements may be based upon the anticipated increase of traffic generated by the site or subdivision. In determining such traffic increase, the Land Use Agency may consider traffic counts, existing and

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projected traffic patterns, quality of roads and sidewalks in the area and the other factors related to the need created by the site or subdivision and anticipated thereto.

ii. Drainage facilities may be based upon the percentage relationship between the site or subdivision acreage and the acreage of the total drainage basins involved, or upon calculations establishing the percentage contribution that the storm run off from a particular site or subdivision bears to the total design capacity of any improvement. The particular methods shall be selected in each instance by the appropriate Land Use Agency's engineer.

iii. All potable water and sewerage facilities shall be computed as follows when allocation of such off tract improvements is necessary.

Total cost of enlargement or improvement		Capacity of enlargement or improvement
	=	
Developer's Cost		Development share of enlargement or improvement

C. Escrow Accounts

(1) Where the proposed off tract improvement is to be undertaken at some future date, the monies required for the improvement shall be deposited in an interest bearing account to the credit of the Township and in a separate account until such time as the improvement is constructed. However, in the event such

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improvements have not been initiated for a period of seven years from the date of payment, after said time said funds will be transferred to the capital improvement fund of the municipality.

(2) The allocation of costs shall be determined by the appropriate Land Use Agency. In the event the allocation has not been established by the appropriate Land Use Agency at the time of approval, the allocation shall be established by the Township Committee after receiving the recommendation of the Township Engineer.

(3) In all cases, the applicant shall be required to enter into a Developer's Agreement with the Township of Ocean with respect to the installation and/or payment for their pro rata share of off tract improvements in accordance with this Chapter, as well as any other Ordinances, Policies, Rules and Regulations of Ocean Township, Ocean County, New Jersey or any other department, authority or agency having jurisdiction over same.

(4) Assessment not precluded. Nothing in this Chapter shall preclude the municipality of assessing any property benefiting from the installation of any off tract improvement as provided in this Section pursuant to the revised statutes of the State of New Jersey, an allowance being made to the respective parcels of realty for payments herein.

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SECTION II. Severability:

Each section, subsection, sentence, clause, and phrase of this Ordinance is declared to be an independent section, subsection, sentence, clause, and phrase;

and the finding or holding of any such portion of this Ordinance to be unconstitutional, void, or ineffective for any cause or reason, shall not affect any other portion of this Ordinance.

SECTION III. Effective date:

This Ordinance shall be in full force and effect from and after its adoption and any publication as may be required by law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed by the Township Committee of the Township of Ocean on first reading at a meeting held on the 13th day of October, 2011. The Ordinance will be considered for second and final reading at a meeting of the Township Committee which is scheduled for the 10th day of November, 2011, at 7:00 p.m., or as soon thereafter as the matter may be reached, at the Municipal Building located at 50 Railroad Avenue, Waretown, New Jersey, at which time the public is invited to ask questions, raise objections, or provide public comment with regard to the proposed adoption of this Ordinance.

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Diane Ambrosio, RMC
TOWNSHIP CLERK

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