

# Chapter 149

## Subdivision of Land

**[HISTORY: Adopted by the Board of Trustees of the Village of Newark 11-17-1970; amended in its entirety 2-20-2018 by L.L. No. 4-2018. Subsequent amendments noted where applicable.]**

### GENERAL REFERENCES

Building construction — See Ch. **62**.

Unsafe buildings — See Ch. **67**.

Sewers — See Ch. **126**.

Site plan review — See Ch. **134**.

Streets and sidewalks — See Ch. **145**.

Zoning — See Ch. **170**.

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### Article I

#### General Provisions

#### § 149-1 Legislative authority.

The Village Board of the Village of Newark is hereby authorized to grant subdivision approval within the incorporated area of the Village, pursuant to New York State Village Law § 7-728 and § 7-730, and Chapter 86 of the Newark Village Code, as amended from time to time.

#### § 149-2 Applicability.

- A. The provisions contained herein shall apply to all land within the corporate limits of the Village of Newark. All divisions of land within the Village of Newark shall be designed and submitted for approval in compliance with the standards and procedures set forth herein.
- B. All plans for division of land within the Village of Newark shall receive approval in compliance with these regulations before being recorded in the office of the Wayne County Clerk.

#### § 149-3 Purpose.

These regulations are adopted to create and provide for conditions favorable to the public health, safety and general welfare and guide future growth by:

- A. Ensuring that the proposed development be approved only when the following facilities be

proved to be of sufficient capacity to accommodate the development:

- (1) Transportation.
  - (2) Sewage treatment.
  - (3) Storm drainage.
  - (4) Fire protection.
  - (5) Erosion control.
  - (6) Flooding.
  - (7) Public water.
  - (8) Recreation facilities.
- B. Establish standards and procedures for subdivision of land and ensure proper legal descriptions and monuments of subdivided land.
- C. Promote sustainable and smart growth planning practices.
- D. Minimize potential conflicts among the uses of neighboring lands and buildings while protecting and conserving the value of land and businesses performed.
- E. Allowing alternate subdivision designs which vary bulk dimensional requirements of Chapter **170** of the Newark Village Code to meet the above-stated objectives.

**§ 149-4 Definitions and word usage.**

For the purpose of these regulations, certain words and terms used herein are defined as follows:

**CODE ENFORCEMENT OFFICER**

The official who is charged with the administration and enforcement of this Code, or any duly authorized representative.

**COLLECTOR STREET**

A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

**COMPREHENSIVE PLAN**

The materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the Village.

**DEAD-END STREET or CUL-DE-SAC**

A street or portion of a street with only one vehicular traffic outlet.

**EASEMENT**

Authorization by a property owner for the use by another, and for a specific purpose, of any designated part of his or her property.

**ENGINEER or LICENSED PROFESSIONAL ENGINEER**

A person licensed as a professional engineer by the State of New York.

**MAJOR STREET**

A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic-generating areas.

**MAJOR SUBDIVISION**

Any subdivision, including but not limited to subdivisions of five or more lots, or any size subdivision requiring any new street or extension of municipal facilities.

**MINOR STREET**

A street intended to serve primarily as an access to abutting properties.

**OFFICIAL MAP**

The map established by the Village Board pursuant to § 7-724 of the Village Law, showing streets, highways and parks and drainage, either existing or proposed.

**PRELIMINARY PLAT**

A drawing or drawings clearly marked "preliminary plat" showing the salient features of a proposed subdivision, as specified in Article II, § 149-15, of these regulations, submitted to the Village Board and to the Code Enforcement Officer a minimum of 15 days before submission to the Village Board, for purposes of consideration prior to submission of the plat in final form and of sufficient detail to apprise the Village Board and the Code Enforcement Officer of the layout of the proposed subdivision.

**SKETCH PLAN**

A sketch of a proposed subdivision showing the information specified in Article II, § 149-8, of these regulations to enable the subdivision to save time and expense in reaching general agreement with the Village Board as to the form of the layout and objectives of these regulations.

**STREET**

A public right-of-way for vehicular traffic which includes streets, roads, avenues, lanes or other trafficways and affords the principal means of access to abutting properties.

- A. Street Center Line — A line midway between and parallel to two opposing property lines that abut a street, or a line as established by the Village Planning Board.
- B. Street Frontage — Those lot lines that abut a street.

- C. Street Grade — The officially established grade of the street a lot sits on. If no grade has been officially established, the existing grade of the street will be considered as the street grade.
- D. Street Line — The right-of-way of a street as dedicated by a deed or record.

**STREET PAVEMENT**

The wearing or exposed surface of the roadway used by vehicular traffic.

**STREET WIDTH**

The width of right-of-way, measured at right angles to the center line of the street.

**SUBDIVIDER**

Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof, as defined herein, either for himself or herself or others.

**SUBDIVISION**

A division of any parcel of land into two or more lots, blocks or sites, with or without streets or highways, and includes resubdivision.

**SUBDIVISION PLAT or FINAL PLAT**

A drawing, in final form, showing a proposed subdivision containing all information or detail required by law and by these regulations to be presented to the Village Board, and to the Code Enforcement Officer at least 15 days before submission to the Village Board, for approval, and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk or Register.

**SURVEYOR**

A person licensed as a land surveyor by the State of New York.

**VILLAGE BOARD**

The Village Board of Trustees of the Village of Newark.

Article II  
**Applications and Procedures**

**§ 149-5 Procedures to be followed.**

Whenever any subdivision of land is proposed to be made and before any contract for the sale of, or an offer to sell, any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed subdivision shall be granted, the subdivider or his or her duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the following procedures.

**§ 149-6 Lot line adjustments.**

- A. Lot line adjustments are administratively reviewed and approved by the Village Code Enforcement Officer.
- B. Lot line adjustment plat shall be accompanied by a fee as set forth from time to time by

resolution of the Board of Trustees.

- C. Submitted plats shall be prepared by a registered professional.
- D. The purpose for the lot line adjustment shall be shown on the plat and described in the deeds.
- E. Applications for lot line adjustments shall be reviewed by the Code Enforcement Officer for compliance with requirements in the Village Code, Chapter 170, regarding lot size, dimensions and general layout.
- F. For lot line adjustments, no additional lots shall be created, and all resulting lots shall be of sufficient area and dimension to meet minimum requirements for zoning and building purposes, or shall improve the dimensions of a substandard lot.
- G. The lot line adjustment shall have no substantial adverse effect on access to, the use of, or the development of the remainder of the parcel(s) or adjoining parcels;
- H. The lot line adjustment shall not likely impact surrounding property in a manner significantly different than if the lot line(s) had not changed.
- I. The resulting parcels must otherwise conform to all other applicable regulations.
- J. The approved plat shall be signed by the Village Code Enforcement Officer.
- K. A copy of said lot line adjustment and appropriate deed description shall be filed in the Wayne County Clerk's office and the Village of Newark Code Enforcement Office.

**§ 149-6.1 Administrative Subdivision**

- A. Administrative Subdivisions are reviewed and approved by the Village Code Enforcement Officer.
- B. The subdivision plat shall be accompanied by a fee as set forth from time to time by resolution of the Board of Trustees.
- C. Submitted plats shall be prepared by a registered professional.
- D. The purpose for the subdivision shall be shown on the plat and described in the deeds.
- E. Applications for administrative subdivisions shall be reviewed by the Code Enforcement Officer for compliance with requirements in the Village Code, Chapter 170, regarding lot size, dimensions and general layout.
- F. All resulting lots shall be of sufficient area and dimension to meet minimum requirements for zoning and building purposes, or shall improve the dimensions of a substandard lot.
- G. The subdivision shall have no substantial adverse effect on access to, the use of, or the development of the remainder of the parcel(s) or adjoining parcels;
- H. The subdivision shall not likely impact surrounding property in a manner significantly

different than if the lot line(s) had not changed.

- I. The resulting parcels must otherwise conform to all other applicable regulations.
- J. The approved plat shall be signed by the Village Code Enforcement Officer.
- K. A copy of said subdivision and appropriate deed description shall be filed in the Wayne County Clerk's office and the Village of Newark Code Enforcement Office.

**§ 149-7 Sketch plan.**

- A. Submission of sketch plan. Pursuant to the Village of Newark meeting schedule, any owner of land shall, prior to subdividing or resubdividing land, submit to the Code Enforcement Officer two copies of a sketch plan of the proposed subdivision, which shall comply with requirements of Article II, § 149-8, for the purpose of classification and preliminary discussion.
- B. Discussion of requirements and classification. The subdivider, or his or her duly authorized representative, shall attend the meeting of the Village Board to discuss the requirements of these regulations for street improvements, drainage, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information.
- C. Study of sketch plan. The Village Board shall determine whether the sketch plan meets the purposes of these regulations and shall, where it deems necessary, make specific recommendations in writing to be incorporated by the applicant in the next submission to the Village Board. The Village Board may ask for review and recommendations of the Planning Board.

**§ 149-8 Sketch plan checklist.**

The sketch plan initially submitted to the Village Board shall be based on Tax Map information or some other similarly accurate base map at a scale (preferably not less than 200 feet to the inch) to enable the entire tract to be shown on one sheet. The sketch plan shall be submitted, showing the following information:

- A. The location of that portion which is to be subdivided in relation to the entire tract and the distance to the nearest existing street intersection.
- B. All existing structures, wooded areas, streams and other significant physical features within the portion to be subdivided and within 200 feet thereof. If topographic conditions are significant, contours shall also be indicated at intervals of not more than 10 feet.
- C. The name of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records.
- D. The Tax Map sheet, block and lot numbers, if available.

- E. All the utilities available and all streets which are either proposed, mapped or built.
- F. The proposed pattern of lots, including lot width and depth; street layout; recreation areas; systems of drainage; sewerage and water supply within the subdivided area.
- G. All existing restrictions on the use of land, including easements, covenants or zoning lines.

**§ 149-9 Preliminary plat application and approval.**

- A. Application fee. Prior to the filing of an application for the approval of subdivision preliminary plat, the subdivider shall file an application for the consideration of a preliminary plat of the proposed subdivision, in the form described in Article II, § 149-10, hereof. The application for conditional approval of the preliminary plat shall be accompanied by a fee as set forth from time to time by resolution of the Board of Trustees.
- B. Number of copies. Twenty copies of the preliminary plat shall be presented to the Code Enforcement Officer by the predetermined deadline, approximately one month before the Village Planning Board meeting. If the subdivision also includes variances, then an additional six copies are required. Electronic versions of the subdivision shall also be submitted (PDF, GIS shapefile, and Auto CAD).
- C. Subdivider to attend Village Board meeting. The subdivider, or his or her duly authorized representative, shall attend the meeting of the Village Board to discuss the preliminary plat.
- D. Study of the preliminary plat. The Village Board shall study the practicability of the preliminary plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, the relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands as yet unsubdivided and the requirements of the Comprehensive Plan, the Official Map and Chapter 170, Zoning. The Village Board may ask for review and recommendations from the Planning Board.
- E. The Planning Board shall study the preliminary layout and follow the procedures of Village Law § 7-728, Subdivision 5, to approve, approve with conditions or disapprove the preliminary layout.

**§ 149-10 Preliminary plat checklist.**

The following documents shall be submitted for conditional approval:

- A. Twenty copies of the preliminary plat. If it also includes variances, then an additional six copies are required. Electronic versions shall also be submitted (PDF, GIS shapefile, and AutoCAD). The preliminary plat shall be prepared at a scale of ~~not more than 100~~, but preferably not less than 50; 50 to 100 feet to the inch.
- B. Information shown on preliminary subdivision plats shall be organized to clearly depict existing and proposed conditions and assist the Planning Board's understanding of potential impacts as well as proposed mitigation.

- C. The preliminary subdivision plat shall be clearly labeled as preliminary and show ~~n~~ all of the following information:
- (1) Proposed subdivision name, name of Village, town and county in which it is located, date, true North point, scale, name and address of record owner, subdivider and engineer or surveyor, including license number and seal.
  - (2) The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent property.
  - (3) Zoning district, including exact boundary lines of district, if more than one district, and any proposed changes in the zoning district lines and/or the text of Chapter 170, Zoning, applicable to the area to be subdivided.
  - (4) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
  - (5) Location of existing property lines, easements, buildings, watercourses, marshes, rock outcrops, wooded areas, single trees with a diameter of eight inches or more as measured three feet above the base of the trunk, and other significant existing features for the proposed subdivision and adjacent property.
  - (6) Location of existing sewers, water mains, culverts and storm drains on the property, with pipe sizes, grades and direction of flow.
  - (7) Contours with intervals of five feet or less, as required by the Board, including elevations on existing roads. Approximate grading plan if natural contours are to be changed more than two feet.
  - (8) The width and location of any streets or public ways or places shown on the Official Map or the Master Plan within the area to be subdivided and the width, location, grades and street profiles of all streets or public ways proposed by the developer.
  - (9) The approximate location and size of all proposed water lines, valves, hydrants and sewer lines and fire-alarm boxes. Connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law. Profiles of all proposed water and sewer lines.
  - (10) Storm drainage plan indicating the approximate location and size of proposed lines and their profiles. Connection to existing lines or alternate means of disposal.
  - (11) Plans and cross sections showing the proposed location and type of sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains and the size and type thereof; the character, width and depth of pavements and subbase,



the location of manholes, basins and underground conduits.

- (12) Preliminary designs of any bridges or culverts which may be required.
  - (13) The proposed lot lines with approximate dimensions and area of each lot.
  - (14) Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the preliminary plat shall show the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than 20 feet in width and which shall provide satisfactory access to an existing public highway or other public highway or public open space shown on the subdivision or the Official Map.
  - (15) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of tract shall also be located on the ground and ~~marked by marker should be metal, at least 3/4 inches in diameter, at least 24 inches in length, located in the ground to existing grade-substantial monuments of such size and type as approved by the Code Enforcement Officer,~~ and shall be referenced and shown on the plat.
- D. If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of not less than 400 feet to the inch, showing an outline of the platted area with its proposed streets and indication of the probable future street system with its grades and drainage in the remaining portion of the tract, and the probable future drainage layout of the entire tract, shall be submitted. The part of the subdivider's entire holding submitted shall be considered in the light of the entire holdings.
- E. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.

#### **§ 149-11 Final plat approval.**

Final subdivision plat approval shall be granted, granted with conditions or disapproved pursuant to Village Law § 7-728, Subdivision 6.

#### **§ 149-12 Final plat checklist.**

The following documents shall be submitted for plat approval:

- A. All information provided on the approved preliminary plat as well as any improvements, modifications and additional information required as part of the preliminary approval.
- B. The plat to be filed with the County Clerk shall be on sheets no smaller than 8 1/2 inches by 11 inches and not larger than 24 inches by 36 inches. The plat shall be drawn at a scale of ~~no more than~~50 to 100 feet to the inch and oriented with the North point at the top of the map. When more than one sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible. The plat shall show:
  - (1) Proposed subdivision name or identifying title and the name of the Village, town and county in which the subdivision is located, the name and address of record owner and

subdivider, name, license number and seal of the licensed land surveyor.

- (2) Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
  - (3) Sufficient data acceptable to the Department of Public Works Superintendent to determine readily the location, bearing and length of every street line, lot line and boundary line and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the state system of plane coordinates and, in any event, should be tied to reference points previously established by a public authority.
  - (4) The length and bearing of all straight lines, radii, length of curves and central angles of all curves and tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The plat shall show the boundaries of the property, location, graphic scale and true North point.
  - (5) The plat shall also show, by proper designation thereon, all public open spaces for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the subdivision plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefor.
  - (6) All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Village Attorney as to their legal sufficiency.
  - (7) Permanent reference monuments shall be shown and shall be constructed in accordance with the specifications of the Department of Public Works Supervisor. When referenced to the state system of plane coordinates, they shall also conform to the requirements of the State Department of Public Works. They shall be placed as required by the Department of Public Works Supervisor and their locations noted and referenced upon the plat.
  - (8) All lot corner markers shall be permanently located, ~~satisfactorily to the Code Enforcement Officer~~ metal, ~~at least 3/4 inches (if metal)~~ in diameter, ~~and~~ at least 24 inches in length, and located in the ground to existing grade.
  - (9) Monuments of a type approved by the Department of Public Works Supervisor shall be set at all corners and angle points of the boundaries of the original tract to be subdivided and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Department of Public Works Supervisor.
- C. Construction drawings, including plans, profiles and typical cross sections, as required, showing the proposed location, size and type of streets, sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, pavements and subbase, manholes, catch basins and other facilities.

**§ 149-13 Final approval.**

Final approved subdivisions and site plans shall be submitted to the Village in electronic format ([PDF](#), GIS shapefile and CAD file). This should include, if possible, delivery of as-built surveys for infrastructure and building footprints in CAD and GIS formats.

**§ 149-14 Filing of approved subdivision plat.**

The owner shall file in the office of the County Clerk or Register such approved final plat or a section of such plat within 62 days from the date of final approval or such approval shall expire. The following shall constitute final approval: the signature of the duly authorized officer of the Village Board constituting final approval by the Village Board of a plat as herein provided; or the approval by such Board of the development of a plat or plats already filed in the office of the County Clerk or Register of the county in which such plat or plats are located if such plats are entirely or partially undeveloped; or the certificate of the Village Clerk as to the date of the submission of the final plat and the failure of the Village Board to take action within the time herein provided. In the event that the owner shall file only a section of such approved plat in the office of the County Clerk or Register, the entire approved plat shall be filed within 30 days of the filing of such section with the Village Clerk in each village in which any portion of the land described in the plat is situated. Such section shall encompass at least 10% of the total number of lots contained in the approved plat, and the approval of the remaining sections of the approved plat shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of § 7-708 of the Village Law.

**§ 149-15 Public streets; recreation areas.**

- A. Public acceptance of streets. The approval by the Village Board of a subdivision plat shall not be deemed to constitute, or be evidence of any acceptance by the Village of any street, easement or other open space shown on such subdivision plat.
- B. Ownership and maintenance of recreation areas. When a park, playground or other recreation area shall have been shown on a plat, the approval of said plat shall not constitute an acceptance by the Village of such an area. The Village Board shall require the plat to be endorsed with appropriate notes to this effect. The Village Board may also require the filing of a written agreement between the applicant and the Village covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of any such recreation areas.

Article III

**General Requirements and Design Standards**

**§ 149-16 Standards to apply; waivers.**

In considering applications for subdivision of land, the Village Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements and shall be waived by the Board only under circumstances set forth in Article V herein.

**§ 149-17 General requirements.**

- A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other maintenance.

- B. Conformity with Official Map and Comprehensive Plan. Subdivisions shall conform to the Official Map of the Village and shall be in harmony with the Comprehensive Plan.
- C. Specifications for required improvements. All required improvements shall be constructed or installed to conform to the Village specifications, which may be obtained from the Code Enforcement Officer.

**§ 149-18 Street layout.**

- A. Width, location and construction. Streets shall be of sufficient width, suitably located and adequately constructed to conform to the Comprehensive Plan and to accommodate the prospective traffic and afford access for firefighting, snow-removal and other road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.
- B. Arrangement. The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions, and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services, such as sewers, water and drainage facilities. Where, in the opinion of the Village Board, topographic or other considerations make such continuance undesirable or impractical, the above conditions may be modified.
- C. Minor streets. Minor streets shall be so laid out that their use by through traffic will be discouraged.
- D. Special treatment along major arterial streets. When a subdivision abuts or contains an existing or proposed major arterial street, the Board may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separations of through and local traffic.
- E. Provision for future resubdivision. Where a tract is subdivided into lots substantially larger than the minimum size required by the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these regulations.
- F. Dead-end streets or culs-de-sac. The creation of dead-end or culs-de-sac residential streets will be encouraged whenever the Board finds that such type of development will not interfere with normal traffic circulation in the area. In the case of dead-end streets or culs-de-sac, where needed or desirable, the Board may require the reservation of a twenty-foot-wide easement to provide for continuation of pedestrian traffic and utilities to the next street. Subdivisions containing 20 lots or more may be required to have at least two street connections with existing public streets, or streets shown on the Official Map, or streets on an approved

subdivision plat for which a bond has been filed. Dead-end streets or culs-de-sac shall be a minimum of 1,200 feet in length.

- G. Block size. Blocks generally shall not be less than 400 feet nor more than 1,200 feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding 800 feet in length, the Village Board may require the reservation of a twenty-foot-wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable, and may further specify, at its discretion, that a four-foot-wide paved footpath be included.
- H. Intersection with collector or major arterial roads. Minor or secondary street openings into such roads shall, in general, be at least 500 feet apart.
- I. Street jogs. Street jogs with center-line offsets of less than 125 feet shall be avoided.
- J. Angle of intersection. In general, all streets shall join each other so that for a distance of at least 100 feet the street is approximately at right angles with the street it joins.
- K. Relation to topography. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.
- L. Other required street. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Village Board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land (as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts). Such distances shall also be determined with due regard for the requirements of approach grades at future grade separations.

**§ 149-19 Street design.**

- A. Widths of rights-of-way. Streets shall have the widths indicated herein. When not indicated on the Comprehensive Plan or Official Map, the classification of streets shall be determined by the Board.
  - (1) Major streets shall have a minimum right-of-way of 70 feet and a minimum pavement width of 36 feet.
  - (2) Collector streets shall have a minimum right-of-way of 60 feet and a minimum pavement width of 34 feet.
  - (3) Local streets have a minimum right-of-way of 60 feet and a minimum pavement width of 34 feet.
- B. Improvements. Streets shall be graded and improved with pavements, curbs and gutters, sidewalks, storm drainage facilities, water mains, sewers, streetlights and signs, street trees and fire hydrants, except where waivers may be requested, and the Village Board may waive,

subject to appropriate conditions, such improvements as it considers may be omitted without jeopardy to the public health, safety and general welfare. Pedestrian easements shall be improved as required by the Department of Public Works Superintendent. All such improvements as noted above shall be approved as to design and specifications by the Department of Public Works Superintendent.

- (1) Fire hydrants. Installation of fire hydrants shall be in conformity with all requirements of standard thread and not as specified by the New York Fire Insurance Rating Organization and the Division of Fire Safety of the State of New York. Fire hydrants shall be of a make approved by the Department of Public Works Superintendent.
  - (2) Streetlighting facilities. Lighting facilities shall be in conformance with the lighting system of the village. Such lighting standards and fixtures shall be installed after approval by the ~~appropriate power company~~ Village Planning Board and Department of Public Works Superintendent.
- C. Utilities in streets. The Village Board shall, whenever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and street line to simplify location and repair of lines when they require attention. The subdivider shall install underground service connections to the property line of each lot within the subdivision for such required facilities before the street is paved.
- D. Utility easements. Where topography is such as to make impractical inclusion of utilities within the street right-of-way, perpetual unobstructed easements of at least 20 feet in width shall be otherwise provided with satisfactory access to the street. Whenever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.
- E. Grades. Grades of all streets shall conform in general to the terrain and shall not be less than 1% nor more than 7%, but in no case more than 3% within 50 feet of any intersection.
- F. Changes in grade. All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the Department of Public Works Superintendent so that clear visibility shall be provided for a safe distance.
- G. Curve radii at street intersections. All street right-of-way lines at intersections shall be rounded by curves of at least 20 feet radius and curves shall be adjusted accordingly.
- H. Grades and curves; visibility of intersections. A combination of steep grades and curves shall be avoided. In order to provide visibility for traffic safety, that portion of any corner lot, whether at an intersection entirely within the subdivision or of a new street with an existing street, within the triangular area formed by two lines along the center lines of the streets and a third line joining them at points 75 feet away from the intersection of the center lines of the street, there shall be no obstructions to vision above the level three feet higher than the center line of the street. If directed, ground shall be excavated to achieve visibility.
- I. Dead-end streets (culs-de-sac.) Where dead-end streets are designed to be so permanently, they should be a minimum of 1,200 feet in length and shall terminate in a circular turnaround

having a minimum right-of-way radius of 60 feet and pavement radius of 50 feet. At the end of temporary dead-end streets a temporary turnaround with a pavement radius of 50 feet shall be provided, unless the Department of Public Works Superintendent approves an alternate arrangement.

- J. Watercourses. Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Department of Public Works Superintendent. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way as required by the Department of Public Works Superintendent, and in no case less than 20 feet in width.
- K. Curve radii. In general, street lines within a block, deflecting from each other at any one point by more than 10°, shall be connected with a curve, the radius of which for the center line of street shall not be less than 400 feet on major streets, 200 feet on collector streets and 100 feet on minor streets.
- L. Service streets or loading space in commercial developments. Paved rear service streets of not less than 20 feet in width or, in lieu thereof, adequate off-street loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use.
- M. Free flow of vehicular traffic abutting commercial developments. In front of areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial use is contemplated, the street width shall be increased by such amount on each side as may be deemed necessary by the Village Board to assure the free flow of through traffic.
- N. Corner lots. Shall be increased in size whenever necessary so as to provide the minimum yard requirements of Chapter 170 of the Village of Newark Code.
- O. Landscaping. Street trees shall be planted in every subdivision. Location, spacing, style and species thereof shall be established by the Planning Board. All new residential lots are required to plant a minimum of one tree per 50 feet of lineal foot. Each tree should have a caliper of 2 1/2 inches.
- P. Recreation space. The Planning Board may require open or recreational space in any subdivision plat where it deems it necessary to uphold their responsibility of ensuring adequate recreation facilities in new development.
- Q. Sidewalks. Sidewalks shall be required as the primary facility for pedestrian circulation. All sidewalks shall not be less than five feet wide and not be less than three feet from the curbline.

## Article IV Required Improvements

### § 149-20 Required improvements.

- A. Improvements and performance bond.

(1) Before the Village Board grants final approval of the subdivision plat, the subdivider shall follow procedures set forth in either Subsection A(1)(a) or A(1)(b) below:

(a) In an amount set by the Village Board, the subdivider shall ~~either~~ file with the Village Clerk either a certified check or a performance bond to cover the full cost of the required improvements, ~~or the subdivider shall file with the Village Clerk a performance bond to cover the full cost of the required improvements.~~ Any such bond shall be satisfactory to the Village Board, the Village Attorney and the Department of Public Works Superintendent as to form, sufficiency, manner of execution and surety. A period ~~of one year (or such other period as the Village Board may determined~~ appropriate by the Village Board, not to exceed three years) shall be set forth in the bond within which required improvements must be completed.

(b) The subdivider shall complete all required improvements to the satisfaction of the Department of Public Works Superintendent, who shall file with the Village Board a letter signifying the satisfactory completion of all improvements required by the Board. For any required improvements not so completed, the subdivider shall file with the Village Clerk a bond or certified check covering the cost of such improvements and the cost of satisfactorily installing any improvement not approved by the ~~Code Enforcement Officer~~ Department of Public Works Superintendent. Any such bond shall be satisfactory to the Village Board, Village Attorney and the Department of Public Works Superintendent as to form, sufficiency, manner of execution and surety.

(c) Once the Planning Board has granted final approval and before the final signatures are placed on the plan, the applicant shall enter into an agreement with the Village Board for subsequent completion of the platted improvements to be dedicated to the Village. The developer shall submit with the tender of dedication and deeds to all streets, easements and required sureties to assure the proper and timely completion of the required improvements.

(2) The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Department of Public Works Superintendent and a map satisfactory to the Department of Public Works Superintendent has been submitted indicating the location of monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to Subsection A(1)(b), then said map shall be submitted prior to endorsement of the plat. However, if the subdivider elects to provide a bond or a certified check for all required improvements as specified in Subsection A(1)(a), such bond shall not be released until such map is submitted.

B. Modification of design of improvements. If at any time before or during construction of the required improvements it is demonstrated to the satisfaction of the Department of Public Works Superintendent that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Department of Public Works Superintendent may authorize modifications, provided that these modifications are within the



spirit and intent of the Village Board's approval and do not extend to the waiver or substantial alteration of the function of any improvement required by the Board. The Department of Public Works Superintendent shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Village Board at its next regular meeting.

- C. Inspection of improvements. At least five days prior to commencing construction of required improvements, the subdivider shall notify the Department of Public Works Superintendent in writing of the time when he or she proposes to commence construction of such improvements so that the Department of Public Works Superintendent may cause inspection to be made to assure that all Village specifications and requirements shall be met during the construction of required improvements and to assure the satisfactory completion of all improvements and utilities required by the Village Board.
- D. Proper installation of improvements. If the Department of Public Works Superintendent shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the Department of Public Works Superintendent shall so report to the Village Board. The Village Board shall then notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the Village's right under the bond. No plat shall be approved by the Village Board as long as the subdivider is in default on a previously approved plat.

## Article V Variances and Waivers

### **§ 149-21 Variations.**

Where the Village Board finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of nullifying the intent and purpose of the Official Map, the Master Plan or Chapter 170, Zoning.

### **§ 149-22 Waivers.**

Where the Village Board finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare, or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity of the proposed subdivision, it may waive such requirements subject to appropriate conditions.

### **§ 149-23 Variances and modifications.**

In granting variances and modifications, the Village Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

### **§ 149-24 Variation of yard requirements in residential districts.**

Upon recommendation of the Planning Board and approval by the Village Board, the requirements concerning lot area, frontage, side and rear yards may be varied for a unified residential

development of not less than two acres, provided that the maximum number of dwelling units of the overall development is not greater than that normally allowable in the district in which it is located, and provided that suitably landscaped open space at least 40 feet in width shall surround the development. Such land as may be made available under this section shall be devoted to common purposes for all residents, including a park, play area or gardens for use of residents.

**§ 149-~~24~~25 Reconsideration.**

- A. Any subdivider aggrieved by a finding, decision or recommendation of the Planning Board may request and receive opportunity to appear before the Planning Board, present additional relevant information and request reconsideration of the original finding, decision or recommendation.
- B. Applications for reconsideration shall be submitted in writing by the subdivider pursuant to the Village of Newark meeting schedule and rates.
- C. Any application for reconsideration shall apply only to that portion of the subdivision which is being aggrieved.