

ORDINANCE NO. 2009-23

**ORDINANCE OF THE TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF BARNEGAT, COUNTY OF OCEAN, STATE OF
NEW JERSEY AMENDING THE SUPPLEMENTING SECTION 66
ENTITLED "STREETS AND SIDEWALKS" OF THE CODIFIED
ORDINANCES OF THE TOWNSHIP OF BARNEGAT**

NOW THEREFORE, BE IT ORDAINED by the Township Committee of the
Township of Barnegat, County of Ocean, State of New Jersey, as follows:

SECTION 1. Chapter 66 of the Code of the Township of Barnegat entitled "Streets and
Sidewalks" is hereby amended and supplemented to add a new paragraph as follows:

"V.

Section 66-44. Requirement to Install Sidewalks and Curbing for all New Residential
Construction.

- (1) Notwithstanding any provision to the contrary, in particular but not limited to Section 55-119(D) sidewalks and curbing shall be required along all street frontages as a condition to issuance of building permits for the construction of a new dwelling in Barnegat Township, whether or not the dwelling is being constructed after receipt of approvals from the Barnegat Township Planning Board or Barnegat Township Zoning Board of Adjustment. The proposed curbing shall be designed and constructed in accordance with the requirements of Chapter 55 and proposed sidewalks shall be designed and constructed in accordance with the requirements of Chapter 55, all as set forth in the Codified Ordinances of the Township of Barnegat.
- (2) The intent of this Section is to require installation of curbing and sidewalks for all new construction of residential dwellings, notwithstanding the fact that the approval may not be required by the Planning Board of Zoning Board of Adjustment because of the issuance of a building permit is not as a result of approval from either the Planning Board of Zoning Board of Adjustment.
- (3) Payment in Lieu of Sidewalk and Curbing:
 - (a) Any property owner may request a waiver of the requirement to install curbing and sidewalks along all street frontages of the subject property by agreeing to pay a sum to the Barnegat Township Pedestrian Safety Fund equal to the cost of said curbing and sidewalk. Said cost shall be determined by the Township Engineer based on documented construction costs for public improvements prevailing in the general area of the municipality.

- (b) In determining whether to grant the requested waiver and accept a payment in lieu of the installation of curbing and sidewalks, the Township Engineer shall consider the following factors:
 - (i) the presence or absence of curbing and sidewalks in the general vicinity of the subject property.
 - (ii) the practical difficulty as established by the applicant of installing such improvements in or adjacent to the subject property due to exceptional topographic conditions, drainage concerns and/or the deleterious impact to surrounding properties as a result of the installation of such improvements.
 - (iii) the recommendation of the Township Construction Code Office.
- (4) Exemption from these Requirements as to Certain Properties in the Pinelands Management Zone:
 - (a) For those building lots in Pinelands Management Zone, wherein at least 17 acres of property are required for one building lot, the Township Committee acknowledges that the financial impact of requiring sidewalks and curbs in the Rural Area of the Township would be an unnecessary financial burden, and unnecessary planning concept. Therefore for those building lots seeking to be approved in Barnegat Township located in the Pinelands Management Zone which building lots are a minimum size of 17 acres, the applicant can either agree to install curbing and sidewalks in accordance with this ordinance or pay 20% of the cost determined by the Township Engineer for the requirement to install curbing and sidewalks as if set forth in subparagraph (3) hereinabove.
- (5) Barnegat Township Pedestrian Safety Fund:
 - (a) In the event that the Township Engineer recommends and the Township Committee approves the recommendation that a payment to the Pedestrian Safety Fund can be made by the property owner in lieu of installing the sidewalks and/or curbing, said funds shall be deposited by the property in accordance with the provisions set forth in Chapter 55-119(D) and shall be deposited into said Fund.
 - (a) Said Fund shall be dedicated to pay for the cost of designing and constructing various pedestrian safety projects within Barnegat Township.

- (c) All monies paid by developers in accordance with this Section shall be deposited into said Fund.
- (d) The Chief Financial Officer of the Township is hereby directed to establish and maintain the Fund and to make disbursements upon the request of the Township Engineer for designated pedestrian safety improvements.

SECTION 2. Severability. The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

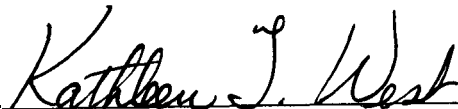
SECTION 3. Repealer. Any ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 4. Effective Date. This Ordinance shall take effect upon publication in an official newspaper of the Township, as required by and in conformance with law.

NOTICE

NOTICE IS HEREBY GIVEN that the foregoing Ordinance was introduced and passed by the Township Committee of Barnegat on first reading at meeting held on the 15th day of June, 2009 at 6:30 p.m. The Ordinance will be considered for second and final reading at a meeting of the Township Committee which is scheduled for the 20th day of July, 2009, at 6:30 p.m., or as soon thereafter as the matter may be reached, at the Municipal Building located at 900 West Bay Avenue, Barnegat, 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.



Kathleen T.T. West, RMC
Municipal Clerk