

BOROUGH OF TETERBORO

ORDINANCE NO. 453

**AN ORDINANCE TO AMEND AND SUPPLEMENT
CHAPTER 165 OF THE CODE OF THE BOROUGH
OF TETERBORO ENTITLED: SUBDIVISION AND
SITE PLAN ORDINANCE OF THE BOROUGH OF
TETERBORO.**

BE IT ORDAINED, by the Borough Council of the Borough of Teterboro, County of Bergen, State of New Jersey, that Chapter 165 of the Code is hereby amended and supplemented as follows:

165-19 Fees and Escrow Deposit: Payments to Professionals; Procedures

- A. Application for the rendering of any service by the Planning Board in its review of Applications for Development, including Applications for Variances made to the Planning Board sitting as a Board of Adjustment, are as follows:
1. Applications for Use Variances under N.J.S.A.40:55D-70(d): \$250.00
 2. Applications for Variances made pursuant to N.J.S.A.40:55D-70(c), or other types of applications ordinarily made to a Board of Adjustment pursuant to the Municipal Land Use Act, and for Variances applied for ancillary to any other application for development: \$150.00
 3. Fees for Minor Subdivisions: \$150.00
(plus \$50.00 per lot)
 4. Fees for Major Subdivisions:
 - (a) Sketch Plat: \$ 50.00
 - (b) Preliminary Application: \$350.00

(plus \$50.00 per lot)

- | | | |
|----|--|----------|
| | (c) Final Application: | \$150.00 |
| 5. | Fees for Site Plan: | |
| | (a) Minor Site Plan: | \$150.00 |
| | (b) Major Site Plan (greater than ½ acre) | \$350.00 |
| 6. | Fees for Applications for Zoning Certificates of Occupancy or other permits to the Planning Board: | \$100.00 |

B. Escrow Deposits.

In addition to the fees set forth in Paragraph (A), the Planning Board shall require initial escrow deposits as follows:

- | | | |
|----|--|------------|
| 1. | Minor Subdivision: | \$750.00 |
| 2. | Major Subdivision: | |
| | (a) Sketch Plat: | \$250.00 |
| | (b) Preliminary Subdivision:
(Plus \$100.00 per lot) | \$2,500.00 |
| | (c) Final Subdivision:
(Plus \$100.00 per lot) | \$500.00 |
| 3. | Minor Site Plan for less than ½ acre: | \$1,000.00 |
| 4. | Major Site Plan for more than ½ acre: | \$2,500.00 |
| 5. | Deposit for Inspection Fees: As determined by the Engineer in an amount not to exceed, except for extraordinary circumstances, the greater of \$500.00 or 5% of the cost of improvements, which cost is determined pursuant to Sub-section (h) of N.J.S.40:55D-53. | |

In addition to the initial deposits provided for herein, the applicant shall make a deposit of such additional sums as an escrow for professional fees as may be reasonably required from time to

time by the Planning Board during the pendency of the application based upon the fee schedule for its professionals which may then be established by ordinance or by resolution. Said escrow deposit shall be placed in an escrow account with any initial deposit received on the application. The Chief Financial Officer of the Municipality shall make all of the payments to professionals for services rendered to the Municipality or approving authority for review of applications for development, review and preparation of documents, inspection of improvement or other purposes under the provisions of N.J.S.40:55D-1 et seq. The application review and inspection charges shall be limited only to professional charges for review of applications, review and preparation of documents and inspections of developments under construction and for review by outside consultants when an application is of a nature beyond the scope of the expertise of the professionals normally utilized by the Municipality. The only costs that shall be added to any such charges shall be actual out-of-pocket expenses of such professionals or consultants including normal and typical expenses incurred in processing applications and inspecting improvements. No applicant shall be charged for any municipal, clerical or administrative functions, overhead expenses, meeting room charges or any of the municipal costs and expenses except as provided for specifically by statute, nor shall a municipal professional add any such charge to his bill.

C. Scope of Reimbursed Services.

The Municipality shall be entitled to be reimbursed for the review of applications, both as to completeness and as to content; for the review and preparation of documents such as, but not limited to: drafting resolutions, developer's agreements and necessary correspondence with applicant or applicant's professionals.

D. Deposit of Escrow Funds: Refunds.

Deposits received from any applicant in excess of \$5,000.00 shall be held by the Chief Financial Officer in a special interest-bearing deposit account, and upon receipt of bills from professionals and approval of said bills as hereinafter provided for, the Chief Financial Officer may use such funds to pay the bills submitted by such professionals or experts. The Municipality shall not be required to refund an amount of interest paid on a deposit which does not exceed \$100.00 for the year. If the amount of interest exceeds \$100.00, the entire amount shall belong to the applicant and shall be refunded to him by the Municipality annually or at the time the deposit is repaid or applied for the purposes for which it has deposited, as the case may be, except that the Municipality will or shall retain for administrative expenses a sum equivalent to no more than 33 1/3% of that entire amount, which shall be in lieu of all other administrative and custodial expenses. All sums not actually so expended shall be refunded to the applicant within 90 days after the final decision by the appropriate Municipal agency with respect to such application, upon certification by the Board Secretary that such application has been finally decided.

E. Payments.

Each payment charged to the deposit for review of applications, review and preparation of documents and inspection of improvements shall be pursuant to a voucher from the professional, which voucher shall identify the personnel performing the service, and each date the services were performed, the hours spent to one-quarter hour increments, the hourly rate and the expenses incurred. All professionals shall submit vouchers to the Chief Financial Officer of the Municipality on a monthly basis in accordance with the schedules and procedures established by the Chief Financial Officer. The professional shall send an informational copy of all vouchers or statements submitted to the Chief Financial Officer of the Municipality simultaneously to (1) the applicant and (2) the

Municipal agency for whom said services were performed.

The Chief Financial Officer shall prepare and send to the applicant a statement which shall include an accounting of funds listing all deposits, interest earnings, disbursements and the cumulative balance of the escrow account. This information shall be provided on a quarterly basis if monthly charges are \$1,000.00 or less, or on a monthly basis if monthly charges exceed \$1,000.00. If an escrow account or deposit contains insufficient funds to enable the Municipality or approving authority to perform required application reviews or improvement inspections, the Chief Financial Officer shall provide the applicant with a notice of the insufficient escrow or deposit balance. In order for work to continue on the development or the application, the applicant shall within a reasonable time period post a deposit to the account in an amount to be agreed upon by the Municipality or approving authority and the applicant. In the interim, any required health and safety inspections shall be made and charged back against the replenishment of funds.

F. Payments Required Prior to Issuance of Permits.

No zoning permits, building permits, certificates of occupancy or any other types of permits may be issued with respect to any approved application for development until all bills for reimbursable services have been received by the Municipality from professional personnel rendering services in connection with such application and payment has been made.

G. Close Out Procedures.

The following close out procedures shall apply to all deposits and escrow accounts established under the provisions of N.J.S.40:55D-1 et seq. and shall commence after the approving authority has granted final approval and signed the subdivision plat or site plan, in the case of application review escrows and deposits; or after the improvements have been approved in

accordance with N.J.S.40:55D-53, in the case of improvement inspection escrows and deposits.

The applicant shall send written notice by certified mail to the Chief Financial Officer of the Municipality and the approving authority and to the relevant municipal professional, that the application or the improvements, as the case may be, are completed. After receipt of such notice, the professional shall render a final bill to the Chief Financial Officer of the Municipality within 30 days and shall send a copy simultaneously to the applicant. The Chief Financial Officer of the Municipality shall render a written final accounting to the applicant on the uses to which the deposit was put within 45 days of receipt of the final bill. Any balances remaining in the deposit or escrow account including interest in accordance with N.J.S.40:55D-53.1 shall be refunded to the developer along with the final accounting.

H. Scope of Charges.

All professional charges for review of an application for development, review and preparation of documents or inspection of improvements shall be reasonable and necessary, given the status and progress of the application or construction. Review fees shall be charged only in connection with an application for development presently pending before the approving authority or upon review of compliance with the conditions of approval, or review of requests for modification or amendment made by the applicant. A professional shall not review items which are subject to approval by any State governmental agency and not under Municipal jurisdiction except to the extent consultation with a State agency is necessary due to the effect of State approvals on the subdivision or site plan.

I. Limitation of Inspection Fees.

Inspection fees shall be charged only for actual work shown on a subdivision or site plan or

required by an approving resolution. Professionals inspecting improvements under construction shall charge only for inspections that are reasonably necessary to check the progress and quality of the work, and such inspections shall be reasonably based on the approved development plans and documents.

J. Substitution of Professionals.

If the Municipality retains a different professional or consultant in place of a professional originally responsible for development application review, or inspection of improvements, the Municipality or approving authority shall be responsible for all time and expenses of the new professional to become familiar with the application or the project, and the Municipality or approving authority shall not bill the applicant or charge to the deposit or the escrow account for any such services.

K. Estimate of Cost of Improvements.

The cost of the installation of improvements for the purposes of N.J.S.40:55D-53 shall be estimated by the Municipal Engineer based on documented construction costs for the public improvements prevailing in the general area of the Municipality. The developer may appeal the Municipal Engineer's estimate to the County Construction Board of Appeals, established pursuant to N.J.S.52:27D-127.

L. Appeals.

(a) An applicant shall notify in writing the governing body with copies to the Chief Financial Officer, the approving authority and the professional whenever the applicant disputes the charges made by a professional for a service rendered to the Municipality in reviewing applications for development, review and preparation of documents, inspection of improvements, or other charges

made pursuant to N.J.S.40:55D-53.2. The governing body or its designee shall within a reasonable time attempt to remediate any disputed charges. If the matter is not resolved to the satisfaction of the applicant, the applicant may appeal to the County Construction Board of Appeals, established pursuant to N.J.S.52:27D-127 any charge to an escrow account or deposit by any municipal professional or consultant, or the cost of the installation of improvements estimated by the municipal engineer pursuant to N.J.S.40:55D-53.4. An applicant or his authorized agent shall submit the appeal in writing to the County Construction Board of Appeals. The applicant or his authorized agent shall simultaneously send a copy of the appeal to the Municipality, approving authority, and any professional whose charges are the subject of the appeal. An applicant shall file an appeal within 45 days from receipt of the informational copy of the professional's voucher required by subsection N.J.S.40:55D-53.2(c), except that if the professional has not supplied the applicant with an informational copy of the voucher, then the applicant shall file his appeal within 60 days from receipt of the municipal statement of activity against the deposit or escrow account required by N.J.S.40:55D-53.2(c). An applicant may file an appeal for an ongoing series of charges by a professional during a period not exceeding six months to demonstrate that they represent a pattern of excessive or inaccurate charges. An applicant making use of this provision need not appeal each charge individually.

(b) Appeals shall be taken in accordance with the Rules and Procedures established by the County Construction Board of Appeals.

(c) During the pendency of any appeal, the Municipality or approving authority shall continue to process, hear and decide the application for development and to inspect the development in the normal course and shall not withhold, delay or deny reviews, inspections, signing of subdivision

plats or site plans, the reduction or the release of performance or maintenance guarantees, the issuance of construction permits or certificates of occupancy, or any other approval or permit because an appeal has been filed or is pending under this subsection. The Chief Financial Officer of the Municipality may pay charges out of the appropriate escrow account or deposit for which an appeal has been filed. If a charge is disallowed after payment, the Chief Financial Officer of the Municipality shall reimburse the deposit or escrow account in the amount of any such disallowed charge or refund the amount to the applicant. If a charge is disallowed after payment to a professional or consultant who is not an employee of a Municipality, the professional or consultant shall reimburse the Municipality in the amount of any such disallowed charge.

M. Severability.

If any section, subsection, paragraph, subdivision or sentence of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, such decision shall apply only to the section, subsection, paragraph, subdivision, sentence, clause, phrase or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

N. Repealer.

All Ordinances or provisions thereof inconsistent with the provisions set forth herein are hereby repealed to the extent of the inconsistency.

O. Effective Date.

This Ordinance shall take effect upon passage and publication as provided by law.

APPROVED BY: MAYOR JOHN P. WATT

ATTESTED BY: NADINE CONN
MUNICIPAL CLERK

INTRODUCTION DATE: APRIL 8, 2003
ADOPTION DATE: MAY 13, 2003