

Ordinance

No. 15-2018

**AN ORDINANCE AMENDING CHAPTER 205. LAND USE AND DEVELOPMENT,
ARTICLE II. ADMINISTRATIVE PROCEDURES; APPEALS, SECTION 205-5(B).
LAND USE BOARD FEES AND ESCROW REQUIREMENTS OF THE CODE OF
THE BOROUGH OF WESTVILLE**

NOW THEREFORE, BE IT ORDAINED by the Mayor and Borough Council of the Borough of Westville, County of Gloucester and State of New Jersey, that Chapter 205. Land Use and Development, Article II. Administrative Procedures; Appeals, Section 205-5(B). Land Use Board Fees And Escrow Requirements is hereby amended as follows:

Section 1. Section 205 (B) is hereby amended to read as follows:

B. Inspection fees. Prior to final approval of the subdivision or site plan, the developer shall deposit with the Municipal Chief Financial Officer a sum of money which the Municipal Chief Financial Officer shall, in turn, deposit in a separate escrow account and carry under the municipality's trust fund section of accounts on the books of the municipality as an inspection fee escrow fund. The amount of money so deposited, exclusive of all other fees, shall be in an amount to reimburse for the reasonable inspection fees paid to the Borough Engineer for the inspection of all improvements required as a condition of subdivision, site plan, land mining or earth extraction approval as such cost is estimated by the Municipal Engineer, as follows:

- (1) not to exceed, except for extraordinary circumstances, the greater of \$500 or 5% of the cost of bonded improvements that are subject to a performance guarantee as outlined in Section 340-13;
- (2) not to exceed 5% of the cost of private site improvements that are not subject to a performance guarantee under Section 340-12 , which cost shall be determined pursuant to section 15 of [P.L.1991, c. 256 \(C.40:55D-53.4\)](#);
- (3) For those developments for which the inspection fees total less than \$10,000, fees may, at the option of the developer, be paid in two installments. The initial amount deposited in escrow by a developer shall be 50% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the Borough Engineer for inspections, the developer shall deposit the remaining 50% of the inspection fees;
- (4) For those developments for which the inspection fees total \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited in escrow by a developer shall be 25% of the inspection fees. When the balance on deposit drops to 10% of the inspection fees because the amount deposited by the developer has been reduced by the amount paid to the

Borough Engineer for inspection, the developer shall make additional deposits of 25% of the inspection fees;

- (5) If the Borough determines that the amount in escrow for the payment of inspection fees, as calculated pursuant to paragraph (i) and (ii) of this section, is insufficient to cover the cost of additional required inspections, the Borough may require the developer to deposit additional funds in escrow provided that the Borough delivers to the developer a written inspection escrow deposit request, signed by the Borough Engineer, which: informs the developer of the need for additional inspections, details the items or undertakings that require inspection, estimates the time required for those inspections, and estimates the cost of performing those inspections.
- (6) However, there shall be a minimum inspection fee escrow deposit of \$300 even though the aforesaid computation produces a lesser amount, unless there are no improvements required for the subdivision or site plan approval, in which case there shall be no inspection fee escrow fund established.
- (7) Said escrow fund shall be used to pay the fees of professional personnel employed to inspect and approve the construction of the improvements required for subdivisions or site plan approval. Any excess or funds in the escrow at the time when all improvements have been finally accepted or approved shall be returned to the developer. If at any time it becomes evident that the escrow fund is or will be insufficient to cover said inspections fees, the developer shall increase the fund as required by the approving municipality agency.
- (8) All fees shall be paid by the applicant or appellant to the secretary or clerk of the municipal agency to which the application or appeal is being made at the same time as the application is submitted or the appeal is filed. Said fee shall then be turned over to the Municipal Chief Financial Officer within 48 hours of receipt.
- (9) Whenever a term is used in this chapter which is defined in the Municipal Land Use Law, such term is intended to have the meaning set forth in the definition of such term found in such statute, unless a contrary intention is clearly expressed from the context of this chapter.
- (10) A fee of \$2 shall be charged for a copy of this section (N.J.S.A. 40:55D-8a).
- (11) When an amount of money in excess of \$5,000 shall be deposited by an applicant in escrow for review fees or inspection fees, the Borough shall not refund an amount of interest earned on such deposit which does not exceed \$100 per year. If the amount of interest exceeds \$100 per year, that entire amount shall belong to the applicant and shall be refunded to the applicant by the Borough annually or at the time the deposit is repaid or applied to the purpose for which it was deposited, as the case may be, except that the Borough may retain 33 1/3% of such interest for administrative and custodial expenses.

Section 2. Repealer.

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

Section 3. Severability.

Each section of this Ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective, shall not be deemed to affect the validity or constitutionality of any other sections or parts hereof.

Section 4. 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.

Introduced: May 31, 2018

Adopted:

BOROUGH OF WESTVILLE

**Russell W. Welsh, Jr.
MAYOR**

ATTEST:

**Kathleen Carroll
DEPUTY MUNICIPAL CLERK**