

**§ 230-141. Zoning Board of Adjustment application fees.**

The Board of Adjustment shall charge the following nonrefundable fees in addition to the fees set forth in §§ 230-139 and in 230-134D for any applications listed thereunder which the Board of Adjustment is required by law to review, whether such review is undertaken in conjunction with or subsequent to an application listed herein.

- A. Processing fee: \$100 per application to cover the costs of newspaper printing and photocopying, etc.
- B. Selected "c" variances: \$100 for each front yard, side yard or rear yard setback variance application for any use or for each "c" variance application pertaining to a single-family detached residence.
- C. Any "d" variance: \$500 per variance application.
- D. Any "c" variance not listed in Subsection B: \$200 per variance, plus escrow identified in § 230-134D(10). **[Amended 6-24-2019 by Ord. No. 2019-15]**
- E. All other applications or appeals to the Zoning Board of Adjustment: \$500 per application, plus escrow identified in § 230-134D(11). **[Added 6-24-2019 by Ord. No. 2019-15]**

**§ 230-134. Applications for development.**

- A. Nonrefundable application fees. There shall be a nonrefundable fee for each application to the Delaware Township Planning Board or Board of Adjustment as provided by law and established in Article XV of this chapter. The application fees are for the purposes of offsetting the administrative and clerical costs of running the Planning Board and Board of Adjustment, exclusive of costs which may be incurred by the Planning Board or Board of Adjustment for legal, planning, engineering and other professional advice deemed necessary by the Planning Board or Board of Adjustment in connection with their reviews of development applications, which costs are provided for hereinbelow.
- B. Creation of escrow account.
- (1) In addition to the nonrefundable application fees, there is hereby created an escrow account, the purpose of which is to defray the costs of application reviews by the Planning Board and Board of Adjustment. The fees required to be paid into the escrow account shall apply regardless of whether the application is to be heard by the Planning Board or by the Board of Adjustment. The escrow account shall be managed in accordance with the provisions of N.J.S.A. 40:55D-53.1 and 53.2.
  - (2) Before submitting an application for development to either the Board of Adjustment or the Planning Board, the applicant shall be required to make a deposit with the Township's Chief Financial Officer as hereinafter provided and to execute an escrow agreement to defray the cost to the Township of all necessary and reasonable charges incurred for technical and professional reviews on behalf of the municipal agency. All fees required by this Section and any other ordinance or section of this chapter shall be paid prior to an application being considered complete; provided however, that payment of a fee shall not in and of itself be deemed to render an application complete. Escrow deposits shall be payable by separate check and shall be accompanied by a signed escrow agreement.
- C. Insufficient or excess funds. In the event that the amounts required to be posted by this chapter are not sufficient to cover the professional charges to the Township of Delaware, the Township's Chief Financial Officer is empowered to request additional funds as provided at Subsection H(2). In the event the amounts posted as fees shall be in excess of the amount required for all professional reviews, the excess funds shall be returned to the applicant as provided at Subsection H(3).
- D. Subdivision and variance review escrow fees. The following subdivision and variance review escrow fees are hereby required and shall be in addition to site plan review fees when site plan approval is also required. **[Amended 12-27-2004 by Ord. No. 2004-24LU; 12-8-2008 by Ord. No. 2008-28LU; 8-8-2011 by Ord. No. 2011-06LU]**
- (1) Boundary adjustment and merger/boundary adjustment and exchange: \$2,500.
  - (2) Minor subdivisions: \$3,000.
  - (3) Major subdivision concept plan: \$4,500.
  - (4) Major subdivision preliminary plan including two or fewer lots: \$6,000.
  - (5) Major subdivision preliminary plan including more than two lots: \$18,750 plus \$1,500 per lot.
  - (6) Major subdivision final plan including two or fewer lots: \$3,000.
  - (7) Major subdivision final plan including more than two lots: \$9,000 plus \$450 per lot.

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- (8) Any "d" variance: \$4,000 per variance.
- (9) Conditional use: \$1,500.
- (10) Up to 3 "c" variances: \$1,000. Each additional "c" variance \$300.
- (11) All other applications to the Board of Adjustment as specified in § 230-141D: \$2,500. **[Amended 6-24-2019 by Ord. No. 2019-15]**
- (12) Major solar or photovoltaic energy facilities and structures: \$7,500. **[Added 8-8-2011 by Ord. No. 2011-06LU]**

E. Site plan review escrow fees. Site plan review escrow fees shall be based on the estimated costs of improvements, including but not limited to construction and installation costs of grading, pavement, surveyors monuments, drainage structures, storm sewers, sanitary sewers, water mains, fire protection features, streets, gutters, sidewalks, culverts, streetlighting, shade trees and landscaping, parking areas, street signs, sedimentation and erosion control devices, public improvements of open space and any other on-tract improvements.

- (1) The following site plan review escrow fees are hereby required and shall be in addition to subdivision and variance review escrow fees, where applicable. In addition to the fees listed below, there shall be a \$25 nonrefundable charge to cover the cost of bookkeeping, which charge shall be added to the initial escrow account deposit. Escrow fees for PWSFs are set forth in Subsection E(3) below.

| <b>Estimated Cost of Improvement(s)</b> | <b>Escrow Fee</b>                        |
|---|--|
| \$0 to \$3,000                          | 20% of total cost                        |
| \$3,001 to \$5,000                      | \$600 plus 4% of the amount over \$3,001 |
| \$5,001 to \$25,000                     | \$680 plus 3% of the amount over \$5,001 |
| \$25,001 to \$50,000                    | \$1,500                                  |
| \$50,001 to \$99,999                    | \$1,700                                  |
| \$100,000 to \$249,999                  | \$1,900                                  |
| \$250,000 to \$499,999                  | \$2,100                                  |
| \$500,000 to \$749,999                  | \$3,300                                  |
| \$750,000 to \$999,999                  | \$4,000                                  |
| \$1,000,000 and over                    | \$4,000                                  |

- (2) In the event that preliminary approval of a site plan has been granted, and the applicant subsequently applies for final site plan approval, an additional escrow deposit of \$400 shall be payable to the Township of Delaware.
- (3) Escrow fees for PWSFs. Escrow fees for PWSFs shall be as follows:
  - (a) If no newly erected antenna support structure is proposed: \$2,000.
  - (b) If a newly erected antenna support structure is proposed: \$15,000. **[Amended 11-9-2015 by Ord. No. 2015-12LU]**

F. Escrow fees as initial deposits.

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- (1) The fees provided for in this section shall be the sums initially required to be deposited into the escrow account to cover the costs of development application reviews. The establishment of such initial deposits shall not absolve the applicant of the responsibility for replenishing the escrow account as provided at N.J.S.A. 40:55D-53.2, nor shall the escrow fees established herein for development application reviews cover or preclude the payment of any other required fees or escrow deposits required by this chapter.
- (2) An application shall not be considered complete until such time as the fees provided for in this section have been deposited with the Township, and the Planning Board or Board of Adjustment, as the case may be, shall not act upon or consider any development application until the initial escrow account deposit has been paid in full.

G. Charges to escrow account.

- (1) The Chief Financial Officer of the Township shall make all of the payments to professionals for services rendered to the Township or municipal agency for review of applications for development, review and preparation of documents, inspection of improvements or other purposes permitted under the provisions of this chapter.
- (2) Such fees or charges shall be based upon a schedule established by resolution. 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 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 any such professional or consultants, including normal and typical expenses incurred in processing applications and inspecting improvements. The Township or municipal agency shall not bill the applicant or charge the escrow account for any municipal clerical or administrative functions, overhead expenses, meeting room charges, or any other municipal costs and expenses except as provided for herein, nor shall a municipal professional add any such charges to his bill.
- (3) If the salary, staff support and overhead for a municipal professional are provided by the municipality, the charge shall not exceed 200% of the sum of the products resulting from multiplying: the hourly base salary, which shall be established annually by ordinance, of each of the professionals; by the number of hours spent by the respective professional upon review of the application for development or inspection of the developer's improvements, as the case may be. For other professionals, the charge shall be at the same rate as all other work of the same nature by the professional for the municipality when fees are not reimbursed or otherwise imposed on applicants or developers.
- (4) Each payment charged to the escrow account 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, for each date, the services performed, the hours spent to one-quarter-hour increments, the hourly rate and the expenses incurred. All professionals shall submit their vouchers to the Chief Financial Officer of the Township on a monthly basis in accordance with schedules and procedures established by the Chief Financial Officer. If the services are provided by a municipal employee, the municipal employee shall prepare and submit to the Chief Financial Officer a statement containing the same information as required on a voucher, on a monthly basis. Each professional shall send an information copy of all vouchers or statements submitted to the Chief Financial Officer simultaneously to the applicant.

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- (5) 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 or construction. Review fees shall be charged only in connection with an application for development presently pending before the municipal agency or upon review of compliance with 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. Inspection fees shall be charged only for actual work shown on a subdivision or site plan or required by the resolution of approval. 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.
- (6) If the municipality retains a different professional or consultant in the place of the professional originally responsible for development application review or inspection of improvements, the Township or the municipal agency, as the case may be, shall be responsible for all time and expenses of the new professional to become familiar with the application or the project, and the Township or municipal agency shall not bill the application nor charge the escrow account for any such services.

H. Account procedures and disputes.

- (1) The Chief Financial Officer of the municipality 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 or less, or on a monthly basis if monthly charges exceed \$1,000.
- (2) If an escrow account or deposit contains insufficient funds to enable the municipal agency or Township to perform required application reviews or improvement inspections, the Chief Financial Officer shall provide the applicant with a notice of the insufficient escrow deposit balance. In order for work to continue on the development or the application, the applicant shall, within 10 business days, post a deposit to the account in an amount to be agreed upon by the municipal agency or Township and the applicant. In the interim, any required health and safety inspections shall be made and charged back against the replenishment of funds.
- (3) The following closeout procedure shall apply to all escrow accounts. The closeout procedure shall commence after the municipal agency has granted final approval and signed the subdivision plat or site plan, in the case of application review escrows, or after the improvements have been approved, in the case of improvement inspection escrows. The applicant shall send written notice by certified mail to the Chief Financial Officer of the Township, to the municipal agency and to the relevant municipal professionals that the application or the improvements, as the case may be, have been completed. After receipt of such notice, each professional shall render a final bill to the Chief Financial Officer within 30 days and shall send a copy simultaneously to the applicant. The Chief Financial Officer shall render a written final accounting to the applicant on the uses to which the deposit was put within 45 days of receipt of final bill. Any balances remaining in the deposit or escrow account, including interest, in accordance with N.J.S.A. 40:55D-53.1, shall be refunded to the developer along with the final accounting.

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- (4) An applicant shall notify the governing body in writing with copies to the Chief Financial Officer, the municipal agency and the affected professional whenever the applicant disputes the charges made by a professional for service rendered to the Township or municipal agency in reviewing applications for development, review and preparation of documents, inspection of improvements or other charges made in the implementation and enforcement of this chapter. The governing body, or its designee, shall, within 30 days of such notice, 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 any charge to an escrow account by any municipal professional or consultant or the cost of the installation of improvements estimated by the Municipal Engineer pursuant to N.J.S.A. 40:55D-53.4. The procedures for filing an appeal to the County Construction Board of Appeals shall be as set forth at N.J.S.A. 40:55D-53.2.a.
- (5) During the pendency of any appeal, the Township or municipal agency 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 section. 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 to a professional or consultant who is not an employee of the municipality, the professional or consultant shall reimburse the municipality in the amount of any such disallowed charge.
- I. Tax Map escrow fees. The following Tax Map Escrow fees are hereby required for every application that requires a change to the Tax Map and shall be in addition to application escrow fees and site plan review fees when site plan approval is also required. **[Added 11-9-2015 by Ord. No. 2015-12LU]**
- (1) Boundary adjustment: \$250.
  - (2) One to three new lots: \$450.
  - (3) Four to seven new lots: \$750.
  - (4) Eight to 12 new lots: \$1,000.
  - (5) Thirteen to 19 new lots: \$1,250.
  - (6) Twenty or more new lots: \$2,500 plus \$50 per lot over 20 lots.