

BOROUGH OF GARWOOD

ORDINANCE NO. 20-11

Adopted: _____

Introduced: August 13, 2020

Public Hearing: _____

Motion: Councilman McCormack

Motion: _____

Seconded: Councilman Beniot

Seconded: _____

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF GARWOOD, COUNTY OF UNION, NEW JERSEY, REGULATING PLANNING BOARD FEES

WHEREAS, the Municipal Land Use Law (“MLUL”) of the State of New Jersey, N.J.S.A. 40:55D-1, et seq. grants to municipalities the power to adopt a zoning ordinance relating to the nature and extent of the uses of lands, buildings, and structures thereon; and

WHEREAS, as part of that legal structure, the Planning Board for the Borough of Garwood is entitled to charge certain fees for applications for variances and conditional uses; and

WHEREAS, the governing body of the Borough of Garwood has determined that the fees and escrow deposits for said applications should be updated to remain current to the needs of the Borough, which is in the public interest.

NOW THEREFORE, BE IT ORDAINED by the Borough Council of the Borough of Garwood, County of Union, New Jersey that:

Section 1. Article XII, “Fees,” of Chapter 106, “Land Use,” of the Code of the Borough of Garwood is hereby amended and supplemented as follows:

Article XII Development Administration.

§ 106-147. Application Fees and Escrow Deposits

I. Fees

Fees for all applications for development, applications for rezoning and appeals shall be paid with the application to the Planning Board. All checks are to be made payable to the Borough of Garwood. Failure to submit payment or the submission of checks that are found to be improperly drawn will cause an application to be deemed incomplete and a hearing on the application to be delayed. Required fees shall be calculated by totaling all applicable fees. Such fees shall be as follows:

A. Fees and Deposits per Application

<u>Application</u>	<u>Application Fee</u>	<u>Escrow Deposit</u>
Variance pursuant to <u>N.J.S.A. 40:55-70(d)</u> (per variance)		

One- and two-family residential	\$500	\$250
For all other uses	\$1,000	\$1,000

**Variance pursuant to N.J.S.A. 40:55-70(c)
 (per variance)**

One- and two-family residential	\$90	n/a
For other residential	\$210	\$1,000
For all other non-residential uses	\$250	\$2,500

Conditional Use Authorization

One- and two-family residential	\$350	n/a
For other residential	\$500	\$1,000
For all other non-residential uses	\$1,000	\$1,500

Site Plan Review

Residential

Residential (Preliminary)	\$1,000, plus \$250 for each additional dwelling over 3 units	\$1,000 for each additional dwelling over 3 units
Residential (Final)	\$700	n/a

Non-Residential

0 to 5,000 sq. ft. (Preliminary)	\$1,000	\$1,000
0 to 5,000 sq. ft. (Final)	\$700	n/a
5,001 to 20,000 sq. ft. (Preliminary)	\$2,000	\$3,000
5,001 to 20,000 sq. ft. (Final)	\$1,000	n/a
20,001 to 50,000 sq. ft. (Preliminary)	\$3,000	\$4,000
20,001 to 50,000 sq. ft. (Final)	\$1,000	n/a
Over 50,001 sq. ft. (Preliminary)	\$4,000, plus \$0.05 for each addl. sq. ft. over 60,000 sq. ft.	\$5,000
Over 50,001 sq. ft. (Final)	\$1,000	n/a

Subdivision Review

Two-lot minor subdivision, lot line adjustment (residential)	\$1,000	\$1,000
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Two-lot minor subdivision, lot line adjustment (non-residential)	\$1,000, plus \$100 per lot	\$1,000
Three-lot or more major subdivision (preliminary)	\$1,2000, plus \$500 per lot	\$2,000
Three-lot or more major subdivision (final)	\$500	\$1,000
Resubmittal fee for revised plat	1/3 of original submission fee	

B. Extension Requests

Applicant shall pay \$100 for any requests to extend the expiration date of a development or variance approval to be heard by the Planning Board.

C. Concept Plan

- (1) Minor subdivision (two lots): \$300 application fee, \$250 escrow deposit
- (2) Major subdivision: \$500 application fee, \$400 escrow deposit
- (3) Site plans (w/o subdivision): \$400 application fee, \$400 escrow deposit

D. Design Standard Waiver

The fee for each request for a design standard waiver shall be \$75 application fee, \$75 escrow deposit.

E. Appeals and Requests for Interpretation Pursuant to N.J.S.A. 40:55D-70(a)-(b)

- (1) One- and two-family residential: \$200 application fee, \$175 escrow deposit
- (2) Other residential: \$400 application fee, \$300 escrow deposit
- (3) Non-residential: \$750 application fee, \$600 escrow deposit

F. Application for Rezoning

The fee for an application for rezoning shall be \$2,500. The applicant shall simultaneously make an escrow deposit of \$2,000. Additionally, applicant shall be liable for all publication fees, mailing costs and any other disbursements by the municipality in connection with the consideration or adoption of an amendment to the Land Use Ordinance, which fees shall be paid in advance by the applicant or deducted from the applicant's escrow deposit.

G. Certificate of Non-Conformity

Each request or application for a Certificate of Non-Conformity pursuant to N.J.S.A. 40:55D-68 shall be accompanied with a fee of \$200.

H. Public Hearings

Each application shall require hearing fees. Fees for hearings before the Planning Board shall be as follows:

- (1) Where a public notice is required: a fee of \$850 is to accompany the application. Individual lot applications for single- and two- family homes are exempt.
- (2) Where a public notice is not required: a fee of \$500 is to accompany the application. Individual lot applications for single- and two- family homes are exempt.
- (3) Where a hearing is continued to a subsequent session, a fee of \$500 is to be paid 10 days prior to the date of the continued hearing. Individual lot applications for single- and two-family homes are exempt. The Board retains the right to waive this fee on an individual case-by-case basis for specific circumstances.
- (4) Where an applicant requests a Special Meeting and public notice is required, a fee of \$885 is to be paid thirty (30) days prior to the date of the hearing. Where a special meeting is continued to a subsequent session, a fee of \$500 is to be paid five (5) days prior to the date of the continued hearing.
- (5) All postponements of public hearings that are requested by the applicant must be made in writing and made prior to the actual date and time of the hearing date and shall be made to the Secretary of the Garwood Planning Board. Postponement requests by applicant made prior to 72 hours of the date and time of the advertised hearing date shall be granted at no further cost to the applicant, and a new public notice shall be made in accordance with the Municipal Land Use Laws.
- (6) Postponement requests by applicant made 48-72 hours of the date and time of the advertised hearing date, with good cause and with permission from the Chairman, shall incur a fee of \$200.00, payable prior to the rescheduling of a new hearing, and a new public notice shall be made in accordance with the Municipal Land Use Laws.
- (7) Postponement requests by applicant made 24-48 hours of the date and time of the advertised hearing date, with good cause and with permission from the Chairman and Attorney of the Planning Board, shall incur a fee of \$400.00, payable prior to the rescheduling of a new hearing, and a new public notice shall be made in accordance with the Municipal Land Use Laws.
- (8) Postponement requests by applicant made less than 24 hours of the date and time of the advertised hearing date, with good cause and with permission from the Chairman and Attorney of the Planning Board, shall incur a fee of \$885.00, or the current rate of attorney fees for attendance at meetings, payable ten (10) days prior to the rescheduling of a new hearing, and a new public notice shall be made in accordance with the Municipal Land Use Laws.
- (9) The Planning Board shall retain the right to waive any and all penalties upon an individual

case basis based upon specific circumstances.

I. Other Meetings

<u>Type of Meeting/Review</u>	<u>Application Fee</u>	<u>Escrow Deposit</u>
Development Review Committee	\$200	\$400
Informal Review Under § 106.74	\$150	\$400

J. Signs.

The fee for a sign permit shall be \$20 plus a fee of \$1 for each square foot of sign area.

II. Deposits and Escrow; Performance Guarantees and Payments to Professionals

- A.** An applicant shall deposit with the Borough an escrow amount determined in accordance with this section and the applicable provisions of N.J.S.A. 40:55D-1, et seq.: (1) to pay for the services of professionals employed by the Borough or the Planning Board to review the application for development and to review and prepare documents in accordance with N.J.S.A. 40:55D-53.2; (2) for inspection fees in accordance with N.J.S.A. 40:55D-53; (3) to satisfy the guarantee requirements of N.J.S.A. 40:55D-53; and (4) for any other purposes permitted under the provisions of N.J.S.A. 40:55D-1, et seq. or other applicable law. The Borough shall deposit the money in an escrow account in accordance with N.J.S.A. 40:55D-53.1
- B.** Deposits required for inspection fees in accordance with N.J.S.A. 40:55D-53 shall be established, maintained, and administered in accordance with the provisions of that statutory section, §106-82K of this chapter, and this section.
- C.** Deposits required to satisfy the guaranteed requirements of N.J.S.A. 40:55D-53 shall be established, maintained, and administered in accordance with the provisions of § 106-82 of this Chapter, and this section.
- D.** The Chief Financial Officer of the Borough shall make all payments to professionals for fees or charges in connection with services rendered to the Borough or the approving authority for review of applications for development, review and preparation of documents, inspection of improvements, or other purposes permitted under law. Such fees or charges shall be based upon a schedule established by resolution and/or by the yearly schedule of fees of the professionals appointed by the approving authority. For professionals normally utilized by the Borough, such fees and charges shall be at the same rate as all other work of the same nature performed by the professional for the municipality when fees are not reimbursed or otherwise imposed on applicants or developers.
- E.** The application review and inspection charges shall be limited to professional charges for review of applications, review and preparation of documents, 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 Borough. The only costs that shall be added to any such charges shall be actual out-of-pocket expenses of any such professionals or consultants, including normal and typical expenses incurred in processing

applications and inspecting improvements.

F. For deposits required pursuant to N.J.S.A. 40:55D-53.2, the amount of deposit required shall be reasonable in regard to the scale and complexity of the development. No application shall be deemed complete until the escrow amounts listed in § 106-147 are posted with the Borough.

G. Escrow Procedures:

- (1) Each payment charged to a deposit made for the review of applications, the review and preparation of documents, and inspections of improvements shall be pursuant to a voucher from the professional. That voucher shall identify the personnel performing the services and, for each date, the services performed, the hours spent to one-quarter-hour increments, the hourly rate, and the expenses incurred.
- (2) All professionals shall submit vouchers to the chief financial officer of the Borough on a monthly basis in accordance with schedules and procedures established by the Chief Financial Officer.
- (3) If the services are provided by a Borough employee, the Borough shall prepare and submit to the Chief Financial Officer of the Borough a statement, on a monthly basis, containing the same information as required on a voucher.
- (4) The professional shall send an informational copy of all vouchers or statements submitted to the Chief Financial Officer of the Borough simultaneously to the applicant. The Chief Financial Officer of the Borough shall prepare and send the applicant a statement. That statement shall include an accounting of funds listing all deposits, interest earnings, disbursements, and the cumulative balance of the escrow deposits.
- (5) The Chief Financial Officer shall provide this information to the applicant on a quarterly basis, if monthly charges are \$1,000 or less, or monthly, if monthly charges exceed \$1,000.
- (6) If an escrow account or deposit contains insufficient funds to enable the Borough or approving authority to perform required application reviews or improvement inspections, the Chief Financial Officer of the Borough shall provide the applicant with a notice of the insufficient escrow or deposit balance.
- (7) In order for work to continue on the development or the application, the applicant shall within ten (10) days, post a deposit to the account in an amount to be agreed upon by the Borough or approving authority and the applicant. With regard to review fees, if the applicant fails to make said deposit within the time prescribed herein, the approving board shall be authorized to dismiss the application without prejudice, subject to the right of the applicant to seek reinstatement of said application by written notice to the chief financial officer that the deposits have been posted. The application will be reinstated upon written notification by the chief financial officer to the approving board that said deposits are, in fact, posted. In the interim the required or appropriate health and safety inspections shall be made and charged

back against the replenishment of funds. With regard to inspection fees, the Planning Board Engineer, its employees; or the Borough Engineer shall not perform any inspection if sufficient funds to pay for the inspections are not on deposit. Failure to post or maintain balances in accordance with the requirements of these sections will subject the developer to a stop-work order and/or suspension of construction permits.

H. Escrow Close-Out Procedures

- (1) The following close-out procedures shall apply to all deposits and escrow accounts 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 completed and approved in the case of improvement inspection escrow and deposits.
- (2) The applicant shall send written notice by certified mail to the Chief Financial Officer of the Borough, to the approving authority, and to the relevant municipal professional that the application or the improvements, as the case may be, are completed.
- (3) After receipt of such notice, each affected professional shall render a final bill to the Chief Financial Officer of the Borough within 30 days, and shall send a copy simultaneously to the applicant.
- (4) The Chief Financial Officer of the Borough shall render a written final accounting to the applicant on the uses to which the deposit was put within 45 days of receipt of all final bills.
- (5) Any balances remaining in the deposit or escrow account, including interest, shall be refunded to the developer along with the final accounting, except for any amounts retained for administrative expenses pursuant to N.J.S.A. 40:55D53.1.

I. Escrow General Provisions

- (1) 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.
- (2) 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 conditions of approval, or review of requests for modification or amendment made by applicant.
- (3) 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 in the subdivision or site plan.
- (4) Inspection fees shall be charged only for actual work shown on a subdivision or site plan or required by an approving resolution.

- (5) 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 Borough retains a different professional or consultant in the place of the professional originally responsible for development, application review, or inspection of improvements, the Borough 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 Borough or approving authority shall not bill the applicant or charge the deposit or the escrow account for such services.

J. Appeals-Escrow Dispute of Charges; Appeals; Rules and Regulations

- (1) An applicant shall notify the Borough governing body, in writing, with copies to the chief financial officer, the approving authority, and the professional, whenever the applicant disputes the charges made by a professional for services rendered to the Borough in reviewing an application for development, reviewing or preparing documents, inspecting improvements, or for other charges made pursuant to law.
- (2) The governing body, or its designee, shall within a reasonable time period attempt to remediate any disputed charges.
- (3) 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 or to a deposit by any municipal professional or consultant.
- (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 Borough, to the approving authority, and to any professional whose charge is the subject of the appeal.
- (5) An applicant shall file its appeal within 45 days from receipt of the informational copy of the professional's voucher, 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.
- (6) 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.
- (7) All disputes relating to charges and appeals thereof shall be in accordance with N.J.S.A. 40:55D-53.2(a).

§ 106-148. (Reserved)

§ 106-149. (Reserved)

§ 106-150. (Reserved)

§ 106-151. List of Property Owners

The fee for preparation of a list of property owners to be notified of a public hearing shall be \$10 or \$0.25 a name, whichever is greater.

§ 106-152. Tax Search/Certificate of Current Taxes

The fee for preparation of a tax search or certificate to determine payment of property taxes shall be \$10.

§ 106-153. Legal Notice

The fee for publication of the legal notice indicating the decision of the approving authority shall be \$25.

§ 106-154. (Reserved)

§ 106-155. Verbatim Recording

- A.** All applicants for subdivision, major site plan, or use variances must supply, at the applicant's own expense, a certified shorthand reporter for the purpose of recording all hearings on any application and the preparation of any transcript requested by any interested party, at such party's expense, on such application. The transcript need not be prepared except in the event of an application or hearing which is continued from one Board session to another, or in the event of any appeal or action in lieu of prerogative writ. In the event of an application or hearing which extends beyond one Board meeting, the applicant shall obtain the certified transcript, and submit three copies of same not later than three calendar days before the next hearing to the Board Secretary.
- B.** It shall be the sole responsibility of the applicant to secure the appearance of the reporter and to ensure that such reporter preserves the shorthand notes so that a transcript may be prepared from such notes in the event of an appeal, whether by applicant or by any interested party.
- C.** The Board shall tape record any such proceedings, as a back-up procedure, but the transcript prepared by the certified shorthand reporter shall be the official record of proceedings.
- D.** For all other applications, the provision of a certified shorthand reporter by applicant shall be optional. Should an applicant elect to provide such a reporter, the aforesaid provisions shall apply. Should an applicant not provide a reporter in such event, the tape recording shall continue to be the official record of proceedings. Further, in the event of a multiple-session hearing or application, the applicant must arrange for the production of copies as aforesaid, at the applicant's expense.
- E.** In any application for relief, the applicant shall have the right to request from the Board a waiver of the requirement that transcripts be produced.

§ 106-156. (Reserved)

§ 106-157. Zoning Permit

The fee for a zoning permit shall be \$10.

§ 106-158. Developer's Assistance Package/Zoning Ordinance

- A.** The fee for the Developer's Assistance Package shall be \$20. The Developer's Assistance Package, if obtained electronically from the Borough's website, shall be at no cost.
- B.** The fee for the Borough Zoning Ordinance booklet, including a copy of the Zoning Map, shall be \$25.

Section 2. Section 106-158, "Deposits and escrow; payments to professionals serving the Borough," of Article XII, "Fees," of Chapter 106, "Land Use," of the Code of the Borough of Garwood is hereby deleted and reserved:

Section 3. All ordinances or parts of ordinances in conflict or inconsistent with any part of this Ordinance are hereby repealed to the extent that they are in conflict or inconsistent.

Section 4. If any section, provision, or part of provision of this Ordinance shall be held to be unenforceable or invalid by any court, such holding shall not affect the validity of this Ordinance, or any part thereof, other than the part so held unenforceable or invalid.

Section 5. A copy of this Ordinance shall be available for public inspection at the office of the Borough Clerk during regular business hours for the required statutory period.

Section 6. This Ordinance shall take effect in accordance with all applicable laws.

APPROVED:

ATTEST:

SARA TODISCO, Mayor

CHRISTINA M. ARIEMMA, Municipal Clerk

RECORDED VOTE	INTRODUCTION:	ADOPTION:
COUNCILMAN BENOIT	AYE	
COUNCILMAN GRAHAM	AYE	
COUNCILMAN INCE	AYE	
COUNCILMAN LAZAROW	AYE	
COUNCILMAN MCCORMACK	AYE	
COUNCIL PRESIDENT BLUMENSTOCK	ABSENT	