

Chapter 211

LAND DEVELOPMENT FEES, ESCROW DEPOSITS AND INSPECTION FEES

GENERAL REFERENCES

Land use procedures — See Ch. 215.

Subdivision of land — See Ch. 297.

Site plan review — See Ch. 285.

Zoning — See Ch. 335.

§ 211-1. Statement of purpose.

This chapter is intended to govern all funds required to be deposited with the Township of Lacey in conjunction with an application for development directed to the Planning Board or Zoning Board of Adjustment of the Township of Lacey and to regulate the required inspection fee deposits as permitted by the Municipal Land Use Law.¹

§ 211-2. Fees to be cumulative.

Where, in conjunction with an application to a municipal board for an approval pursuant to the Municipal Land Use Law,² a fee is specified in this chapter for a type of relief sought by that board, and where the applicant seeks more than one type of relief, all fees shall be cumulative, unless elsewhere specifically set forth in this chapter, and additional fees and deposits shall be required for each variance or other type of relief sought by the applicant.

§ 211-3. Subdivision approval. [Amended 9-26-2002 by Ord. No. 02-37; 12-23-2010 by Ord. No. 2010-28; 6-14-2012 by Ord. No. 2012-15]

- A. Application fees. The developer shall, at the time of filing an application for development, pay a nonrefundable application fee, as set forth in this section, to the Township of Lacey. Application fees for subdivision approval are as follows:
- (1) Minor subdivision to be filed by deed: \$300.
 - (2) Minor subdivision to be filed by map or plat: \$300.
 - (3) Preliminary major subdivision approval: \$400.
 - (4) Final major subdivision approval: \$300.
- B. Escrow deposits. The developer shall, in addition to the application fee set forth previously in this chapter, at the time of filing of an application for development, post escrow deposits to cover the expenses of the Board in conjunction with the review of the application by its professionals, including, but not limited to, engineering reviews and counsel fees. These escrow deposits are intended to cover all costs associated with the review and approval process.

1. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

2. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

- C. At the discretion of the Planning Board/Zoning Board of Adjustment, it shall be determined at a workshop session as to whether an application being filed will need to be reviewed by the Board's professional planner. If it has been determined that a professional planner's review is necessary, the developer shall post additional escrow deposits to cover the expenses of the Board in conjunction with the review of the application by its professional planner, including, but not limited to, engineering reports, review and attendance at meetings. This upfront deposit is intended to cover costs associated with the review and approval process set forth throughout this chapter.
- D. The Planning Board/Zoning Board of Adjustment shall determine whether a certified appraiser will be needed to provide professional services. When determined by the Board that such professional is required for the particular application, the developer shall post additional escrow deposits to cover the expenses of the Board in conjunction with the professional certified appraiser, including, but not limited to, reports, review and attendance at meetings. This minimum upfront deposit is intended to cover costs associated with the reports and approval process throughout this chapter. **[Added 10-10-2012 by Ord. No. 2012-25³]**
- E. Escrow fees for subdivision application shall be as follows:
- (1) Minor subdivision by deed:
 - (a) One to three lots: \$600 for the first lot.
 - (b) Each lot thereafter: \$200 for each lot thereafter.
 - (2) Minor subdivision filed by map or plat:
 - (a) One to three lots: \$600 per lot.
 - (b) Each lot thereafter: \$200 for each lot thereafter.
 - (3) Preliminary major subdivision:
 - (a) For the first 10 lots: \$300 per lot.
 - (b) In excess of 10 up to 50 lots: \$100 per lot.
 - (c) In excess of 50 up to 100 lots: \$35 per lot.
 - (d) In excess of 100 lots up to 200 lots: \$50 per lot.
 - (e) In excess of 200 lots: \$25 per lot.
 - (f) Final major subdivision approval: 50% of the escrow deposits for the preliminary application.
 - (g) Minimum escrow deposit for planning review: \$1,700.

§ 211-4. Site plan approval fees and escrows. [Amended 12-23-2010 by Ord. No. 2010-28; 6-14-2012 by Ord. No. 2012-15]

3. Editor's Note: This ordinance also redesignated former Subsection D as Subsection E.

- A. Application fees. The developer shall, at the time of filing an application for site plan approval, pay the following nonrefundable application fees:
- (1) Minor site plan: \$400.
 - (2) Major site plan and preliminary site plan: \$500.
 - (3) Final site plan: \$250.
- B. Site plan application escrow deposits.
- (1) Minor site plan:
 - (a) One acre or less: \$1,000.
 - (b) For each additional acre or portion thereof: \$100.
 - (c) Minimum escrow deposit for planning review: \$1,700.
 - (2) Preliminary major site plan:
 - (a) First acre: \$3,000.
 - (b) For each additional acre or portion thereof: \$500.
 - (c) Minimum escrow deposit for planning review: \$1,700.
 - (3) Final major site plan: 50% of preliminary application escrow deposits.

§ 211-5. Variances. [Amended 2-24-2000 by Ord. No. 00-05; 9-26-2002 by Ord. No. 02-37; 12-23-2010 by Ord. No. 2010-28; 6-14-2012 by Ord. No. 2012-15; 10-10-2012 by Ord. No. 2012-25]

- A. Variances pursuant to N.J.S.A. 40:55D-70, Subdivision c, except for undersized lot variances: \$200.
- B. Variances pursuant to N.J.S.A. 40:55D-70, Subdivision d: \$200.
- C. Variances pursuant to N.J.S.A. 40:55D-70, Subdivision c, for undersized, individual lots: \$200.
- D. Relief pursuant to N.J.S.A. 40:55D-36, for leave to construct on a lot not fronting on an improved road: \$200.
- E. Escrow deposits. The developer shall, at the time of filing an application for development, pay the following escrow deposits to the Township of Lacey in conjunction with applications for variance relief:
- (1) Variances pursuant to N.J.S.A. 40:55D-70, Subdivision c, except for undersized lots: \$500 for the initial variance, \$100 for each additional variance.
 - (2) Variances pursuant to N.J.S.A. 40:55D-70, Subdivision d: \$1,200 per variance.
 - (a) Minimum escrow deposit for planning review: \$1,700.

- (3) Variances pursuant to N.J.S.A. 40:55D-70, Subdivision c, for undersized lots where the lot in question is less than 6,000 square feet: \$1,200 per variance.
 - (a) Minimum escrow deposit for planning review: \$1,700.
 - (b) Minimum escrow deposit for certified appraiser review: \$1,000.
- (4) Variances pursuant to N.J.S.A. 40:55D-70, Subdivision c, where the lot in question is 6,000 square feet or larger: \$1,200 per variance.
 - (a) Minimum escrow deposit for planning review: \$1,700.
 - (b) Minimum escrow deposit for certified appraiser review: \$1,000.
- (5) Relief pursuant to N.J.S.A. 40:55D-36 for property not fronting on an improved road: \$2,500.
 - (a) Minimum escrow deposit for planning review: \$1,700.
 - (b) Minimum escrow deposit for certified appraiser review: \$1,000.

§ 211-6. Other land use applications. [Amended 7-24-1997 by Ord. No. 97-32; 9-26-2002 by Ord. No. 02-37; 12-23-2010 by Ord. No. 2010-28]

The developer shall, at the time of filing an application for development, pay a nonrefundable application fee, as set forth herein, for other land use applications addressed at the Planning Board of the Zoning Board of Adjustment:

- A. Concept plan presentation: \$200.
- B. Extension of prior approval: \$200.
- C. Amendment of previously granted Board approval: \$200.
- D. Consolidation and resubdivision: \$200.
- E. Conditional use permit application: \$200.
- F. Zone change request: \$200.
- G. Request for interpretation of Chapter 335, Zoning: \$200.
- H. Appeal of a decision of the Zoning Officer: \$200.
- I. Request for recommendation for street vacation: \$200.
- J. Certificate of subdivision approval: \$100.
- K. Certificate of nonconformity: \$100.
- L. Flood hazard zone determination: \$25.
- M. Review of proposed road improvement plan pursuant to Chapter 293, Article III: \$200.
- N. Request for an administrative approval: \$200.

§ 211-7. Escrow deposits in conjunction with other land use applications. [Amended 2-28-2002 by Ord. No. 02-04; 9-26-2002 by Ord. No. 02-37; 12-23-2004 by Ord. No. 2004-57; 12-23-2010 by Ord. No. 2010-28; 6-14-2012 by Ord. No. 2012-15; 10-10-2012 by Ord. No. 2012-25]

- A. Concept plan presentation: \$500. [Amended 8-15-2013 by Ord. No. 2013-17]
- B. Extension of Board approval: \$500.
- C. Amendment of previous prior Board approval: 50% of the original fee.
- D. Consolidation of resubdivision: same as major and/or minor subdivision.
- E. Conditional use permit application: \$1,000.
- F. Zone change request: \$2,000.
- G. Request for interpretation of Chapter 335, Zoning: \$300.
- H. Appeal of a decision of the Zoning Officer: \$500.
- I. Request for recommendation for street vacation: \$800.
- J. Substantial revision to pending application before the Board: 30% of the original fee.
- K. Request for an administrative approval: \$500.
- L. Review of proposed road improvement plan: \$800.
- M. Minimum escrow deposit associated with any other land use application under § 211-6 for planning review: \$1,700.
- N. Minimum escrow deposit associated with any other land use application under § 211-6 for certified appraiser review: \$1,000.

§ 211-8. Escrow deposit payment options.

If at any time of the application the total required deposits in conjunction with the application or the total escrows required to be deposited pursuant to this chapter are in excess of \$1,000, the applicant may elect to post the deposits in stages. At the time of the filing of the application, applicants may elect to deposit an amount equal to 70% of the total escrow deposit required in conjunction with the application. In the event that the applicant elects this option, the additional 30% of the total escrow required or on developer's receipt of the signed resolution of approval, whichever is earlier.

§ 211-9. Applications and escrows as items of completeness.

- A. No application shall be deemed complete until such time as the applicant has paid all nonrefundable application fees and escrow fees required by this chapter. If at any time during the review of the application the escrows on deposit fall below a number equal to 30% of the total required escrows, an additional 30% of the initial escrow shall be deposited. Written notice shall be directed to the applicant by the appropriate Lacey Township official so advising, and the application shall be deemed incomplete until such time as the required additional escrows are placed on deposit.

- B. Purpose of escrows. Escrow deposits are intended to cover the entire cost of review by board professionals. This chapter estimates the total cost of review of a land use application; however, the applicant is responsible for any and all professional fees associated with the approval process. The escrow deposit shall be utilized to reimburse the Planning or Zoning Board Attorney for the local fees for the preparation of any resolution or other legal services in connection with a development application.
- C. Escrow deposits shall be administered by the Chief Financial Officer of the Township of Lacey in accordance with the requirements of the Municipal Land Use Law. Funds to be dispersed from the escrow account shall be disbursed by the Chief Financial Officer of the Township of Lacey upon receipt of vouchers from board professionals. Contemporaneously with said vouchers being submitted to the Chief Financial Officer by a board professional seeking payment from an escrow deposit, a copy of that voucher, together with an itemized statement of the services rendered in accordance with the requirements of the Municipal Land Use Law,⁴ shall be directed to the applicant or to the applicant's attorney, if the applicant so directs at the time of the application.
- D. Escrow deposits for zone change request applications shall be utilized to cover Planning Board or Zoning Board fees, fees for review by engineers and preparation of resolutions. The escrow deposit shall cover other professional fees in connection with review and the decision on such an application. Additionally, the escrow shall also be utilized for additional Township fees in connection with the zone change request, including but not limited to fees to draft any ordinance implementing a zone change, costs of publications, costs of certified mailings to adjoining municipalities, other governmental agencies, and those affected by the change in zoning, as well as amendments to the Lacey Code book. **[Added 2-28-2002 by Ord. No. 02-04]**

§ 211-10. Performance guaranties.

Inspection fees for on-site and off-site bonded improvements.

- A. Inspection fee escrow deposits.
- (1) At least one week prior to the beginning of construction or installation of any required improvements, the developer shall notify the Township Engineer, in writing, of the developer's intention to commence such work. All improvements and utility installations shall be inspected during the time of their installation by the Township Engineer or his designee to ensure satisfactory completion, and no underground installation shall be covered until inspected by the Township Engineer or his designee.
 - (2) The cost of all inspections shall be the responsibility of the developer, and he shall deposit the necessary inspection fee with the designated municipal officer upon making application for final approval under this chapter or prior to the start of any construction, whichever shall first occur. The inspection fee shall be in addition to the amount of any required performance or maintenance guaranties and shall consist of a sum equal to the following:

4. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

- (a) The amount of escrow deposit for inspection fees shall be 5% of the total cost of the improvements with a minimum fee of \$500.
 - (b) For those developments for which the reasonably anticipated fees are less than \$10,000, these fees may, at the option of the developer, be paid in two installments. The initial amount deposited by the developer shall be 50% of the reasonably anticipated fees.
 - (c) When the balance on deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspection, the developer shall deposit the remaining 50% of the anticipated inspection fees.
 - (d) For those developments for which the reasonably anticipated fees are \$10,000 or greater, these fees may, at the option of the developer, be paid in four installments. The initial amount deposited by a developer shall be 25% of the reasonably anticipated fees. When the balance on the deposit drops to 10% of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for inspection, the developer shall make additional deposits of 25% of the reasonably anticipated fees. The Township Engineer shall not perform any inspection if sufficient funds to pay for these inspections are not on deposit.
 - (e) The inspection fee escrow shall be held in reserve by the Township and used to pay the costs of inspecting the construction. It shall be the obligation of the developer to pay for the actual costs of inspecting the construction. Any excess moneys shall be remitted to the developer upon approval of all improvements as provided herein. Any additional inspection costs shall be paid by the developer prior to the approval of the improvements by the governing body as provided for herein.
 - (f) The required guaranties and inspection costs shall be posted with the appropriate Township official prior to the signing of the final plat, the issuance of any building permits or the commencement of any construction.
 - (g) In the event that final approval of a development has been granted in stages or sections and hence the construction of the required improvements is to be undertaken in stages or sections, bonding and inspection of improvements shall also be in stages or sections.
 - (h) In addition to the inspection fee escrow set forth above, at the time the inspection fee escrow is deposited, the developer shall also deposit the sum of \$300 for any legal costs in connection with the preparation of any documents by the Township related to the development.
- B. The minimum inspection cost shall be \$500.
- C. The administration of all funds on deposit shall be undertaken by the appropriate Lacey Township official in accordance with the requirements of the Municipal Land Use Law.⁵

5. Editor's Note: See N.J.S.A. 40:55D-1 et seq.

- D. In addition to the inspection fee escrow deposits required by this subsection, the developer or applicant, upon submitting a performance or maintenance guaranty for review or when applying for a reduction or release of any performance or maintenance guaranty, shall include with said submission or application the following escrow deposits: \$150 for any engineering inspection required by the Township Engineer, \$300 for any legal costs incurred to review any performance or maintenance guaranty and prepare any necessary Township resolution in connection with the application. **[Added 10-10-1996 by Ord. No. 96-46]**

§ 211-11. Refund of escrow deposits.

- A. Upon completion of the application as evidenced by the execution of the Mylar, and at the time that the applicant posts all required inspection fees, any unused escrow deposits shall be refunded to the applicant. In the event that the application is denied, all unused portions of escrow deposits shall be refunded to the applicant within 30 days of the date of the adoption of the resolution of denial.
- B. Prior to the execution of a subdivision map or site plan by the Chairman and Secretary of the Planning Board, the Chairman and Secretary shall require written confirmation from board professionals that there are no outstanding fees in conjunction with the application that are to be charged to escrows. In the event that additional fees to be charged to escrows are submitted, and insufficient funds are on deposit in escrow to pay said fees, the applicant shall be notified to post such additional escrow deposits prior to the execution of the subdivision map or site plan.

§ 211-12. Mandatory development fees. [Added 6-13-2002 by Ord. No. 02-10]

- A. Purpose. The purpose of the mandatory development fee is to provide funding for the Township's housing element and fair share plan approved by the Township Committee, Township of Lacey.
- B. Definitions.
- (1) The following words used in this subsection are intended to have the same meaning as given to them by the New Jersey Supreme Court in the Mount Laurel II decision and as clarified or otherwise modified by subsequent decisions, if any, by a court of competent jurisdiction, and by the New Jersey Council on Affordable Housing in N.J.A.C. 5:93-1.3, including but not limited to:

AFFORDABLE — A sales price or rent within the means of a low- or moderate-income household as defined in N.J.S.A. 5:93-7.4.

COUNCIL or COAH — The New Jersey Council on Affordable Housing.

EQUALIZED ASSESSED VALUATION — The value of property determined by the Municipal Tax Assessor through a process designed to ensure that all property in the municipality is assessed at the same assessment ratio or ratios as required by law. Estimates at the time of issuance of a building permit may be obtained by the Tax Assessor utilizing estimates for construction cost. Final equalized assessed value will be determined at project completion by the Municipal Tax Assessor.

INCLUSIONARY DEVELOPMENT — A residential development in which a substantial percentage of the housing units is provided for a reasonable range of low- and moderate-income households.

MANDATORY DEVELOPMENT FEE — A fee paid pursuant to a mandatory fee ordinance.

MANDATORY FEE ORDINANCE — An ordinance which prohibits development pursuant to an existing permitted use in the zoning ordinance⁶ without compelling the affected developer to contribute monies to the municipality's affordable housing trust fund.

SUBSTANTIVE CERTIFICATION — A determination by COAH approving a municipality's housing element and fair share plan in accordance with the provisions of the Fair Housing Act⁷ and the rules and criteria as set forth herein. A grant of substantive certification shall be valid for a period of six years in accordance with the terms and conditions therein.

- (2) All other terms contained herein shall be as set forth in the Municipal Land Use Act, N.J.S.A. 40:55D-1 et seq. and Chapter 211, Land Development Fees, Escrow Deposits and Inspection Fees.
- C. Amount of residential development fees. All developers of residential major subdivisions shall pay a mandatory development fee equal to 1.0% of the equalized assessed valuation for each residential unit constructed. This mandatory fee shall be calculated as follows: $1.0\% \times \text{equalized assessed valuation} \times \text{number of units}$. [**Amended 3-10-2005 by Ord. No. 2005-08**]
- D. Amount of nonresidential development fees. All nonresidential developers shall pay a mandatory development fee equal to 2.0% of the total equalized assessed valuation of the nonresidential development; provided, however, no development fee shall be required where the total equalized assessed value of the development is less than \$15,000 as established by the Tax Assessor. This mandatory fee shall be calculated as follows: $2.0\% \times \text{total equalized assessed valuation}$. [**Amended 3-10-2005 by Ord. No. 2005-08**]
- E. Timing of payments.
 - (1) Fifty percent of the total mandatory development fee owed to Lacey Township, whether for residential or nonresidential development, shall be paid prior to the issuance of any building permit required in connection with the development and shall be calculated as follows:
 - (a) For residential developments, the 50% payment required prior to the issuance of any building permit shall be calculated using an estimated equalized valuation of each residential unit as determined by the Lacey Township Tax Assessor.
 - (b) For nonresidential developments, the 50% payment required prior to the issuance of any building permit shall be calculated using an estimated total equalized assessed valuation of the nonresidential development as determined by the Lacey Township Tax Assessor.

6. Editor's Note: See Ch. 335, Zoning.

7. Editor's Note: See N.J.S.A. 52:27D-301 et seq.

- (2) The remaining portion of the development fee shall be paid prior to the issuance of any certificate of occupancy for any development or any part thereof, whether residential or nonresidential, and shall be calculated using the actual assessed valuation of the development as determined by the Lacey Township Tax Assessor.
- (3) Because the initial payment required prior to the issuance of a building permit is calculated using an estimated assessed valuation based on estimates for construction costs, the following adjustments are permitted to compensate for differences between the estimated assessed valuation and the actual assessed valuation: If the estimated assessed valuation used to calculate the initial 50% payment was overestimated or underestimated, causing the actual assessed valuation to be less than or greater than the estimated assessed valuation used to calculate the initial 50% payment, the developer's certificate of occupancy payment shall be equal to the difference between the actual assessed valuation and the initial 50% payment as determined by the Lacey Township Tax Assessor.

F. Exemptions, eligible exactions and ineligible exactions.

- (1) Inclusionary developments, as defined herein, are exempt from development fees.
- (2) Developments that have received preliminary or final approval, prior to the effective date of this section are exempt from development fees during the effective period of said approval, unless the developer seeks a substantial change in the approvals granted.
- (3) Low- and moderate-income dwelling units shall be exempt from paying development fees.
- (4) Development that expands an existing structure shall pay a development fee. The development fee shall be calculated based on the increase in the equalized assessed value of the improved structure.

G. Housing trust fund.

- (1) All mandatory development fees collected pursuant to this section shall be deposited in the interest-bearing escrow account entitled the Affordable Housing Trust Fund: Mandatory Fee Account.
- (2) If the court determines that Lacey Township's spending is not in conformance with COAH's rules on development fees, the court is authorized to direct the manner in which all development fees collected pursuant to this section shall be expended.

H. Use of funds.

- (1) Money deposited in a housing trust fund may be used for any activity approved for addressing the Township's low- and moderate-income housing obligation. Such activities may include, but are not necessarily limited to housing rehabilitation; new construction; regional contribution agreements; the purchase of land for low- and moderate-income housing; extensions and/or improvements of roads and infrastructures to low- and moderate-income housing sites; assistance designed to render units to be more affordable to low- and moderate-income people; and administrative costs necessary to implement the Township's housing element. The expenditure of all money shall conform to the approved spending plan.

- (2) Unless specifically waived, not less than 30% of the revenues collected from development fees collected pursuant to this section shall be devoted to rendering existing units more affordable to low- and moderate-income households by funding such activities as down payment assistance, low-interest loans and rental assistance.
- (3) No more than 20% of the revenues collected from development fees collected pursuant to this section shall be devoted to administrative expenses incurred by the Township in addressing its fair share obligation.

§ 211-13. Tax Map revision fees. [Added 12-23-2003 by Ord. No. 2003-54]

In regard to any application for development, applicant shall be required to submit a fee to the Township for the revision of the Township Tax Map as follows:

A. Subdivisions.

- (1) Minor subdivision of up to six lots: base fee of \$200, plus \$20 per lot.
- (2) Major subdivision of seven to 24 lots: base fee of \$500, plus \$20 per lot.
- (3) Major subdivision of 25 to 100 lots: base fee of \$800, plus \$20 per lot.
- (4) Major subdivision of over 100 lots: base fee of \$800, plus \$10 per lot.

B. Site plan approvals.

- (1) Property that is less than one acre: base fee of \$300.
- (2) Property that is one to five acres: base fee of \$500.
- (3) Property that is over five acres up to 10 acres: base fee of \$800.
- (4) Property that is over 10 acres: base fee of \$1,200.
- (5) Residential or commercial condominium projects: base fee of \$300, plus \$10 per unit.

C. Miscellaneous. Any approved application that requires the revision of the Township Tax Map and is not covered by § 211-13A or B: \$100.