

# ORDINANCE

No. 09-043 <sup>1e0</sup>  
5220

1st Reading AUG 6 2009  
Public Hearing SEP 3 2009  
2nd Rdg. and Final Passage SEP 3 2009  
Withdrawn \_\_\_\_\_ Lost \_\_\_\_\_

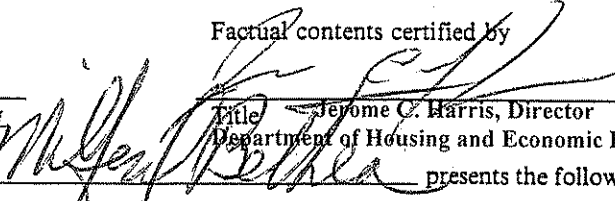
Date to Mayor SEP 3 2009  
Date Returned SEP 14 2010  
Date Resubmitted to Council \_\_\_\_\_

Approved as to Form and Legality

Factual contents certified by

  
Joseph A. Alacqua  
Special Counsel

Councilman

  
Jerome C. Harris, Director  
Department of Housing and Economic Development

presents the following Ordinance:

## ORDINANCE AMENDING CHAPTER 315, ZONING AND LAND DEVELOPMENT, "FEES, GUARANTEES AND OFF-TRACT IMPROVEMENTS" OF THE CODE OF THE CITY OF TRENTON

**WHEREAS**, the State of New Jersey Municipal Land Use Law, N.J.S.A. 40:55D - 1 et. seq., allows municipalities to charge fees to cover the cost of professional reviews as related to applications before municipal Planning and Zoning Boards; and

**WHEREAS**, the municipality may charge both escrow fees for professional reviews by consultants as well as fees to cover reviews by municipal professionals; and

**WHEREAS**, an increase in escrow fees and establishing a fee schedule for municipal professionals will ensure that land use development applications are processed expeditiously and that fees adequately cover all reviews without incurring additional cost to the City; and

**WHEREAS**, there has been prepared and submitted to the City Council of the City of Trenton for its review and approval, amendments to Chapter 315 of the Zoning and Land Development Ordinance, "Fees, Guarantees and Off Tract Improvements" of the code of the City of Trenton (Attachment A); and

**WHEREAS**, it is in the best interest of the citizens of the City of Trenton to require developers to pay for the cost of reviews of land development applications, thereby eliminating the need for the City to incur these expenses; and

**WHEREAS**, the fees established herein are reasonable and consistent with sound land use planning principals.

# ORDINANCE

**NOW, THEREFORE, IT IS ORDAINED**, by the City Council of the City of Trenton as follows:

1. That said amendments to Chapter 315- Zoning and Land Development, "Fees, Guarantees, and Off- Tract Improvements" of the code of the City of Trenton, are hereby approved, and the City Clerk is hereby directed to file said amendments in the City Clerk's office and also file a copy of the ordinance with the County of Mercer Planning Board.
2. All ordinances or parts of ordinances of the City of Trenton heretofore adopted that are inconsistent with any of the terms and provisions of this Ordinance are hereby repealed to the extent of the inconsistency.
3. This ordinance shall take effect thirty (30) days after final passage by Council or twenty (20) days after approval by the Mayor, whichever comes first.

RECORD OF COUNCIL VOTE ON FINAL PASSAGE														
COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.	COUNCILMAN	AYE	NAY	N.V.	A.B.
BETHEA	X				MELONE	X	X			PINTELLA	X	X		
COSTON				X	SEGURA	X	X			PRESIDENT	X	X		
LARTIGUE				X	STATON	X	X							

X—INDICATES VOTE      A.B.—ABSENT      N.V.—NOT VOTING      X.O.R.—INDICATES OVERRIDE VETO

Adopted on first reading at a meeting of the City Council of the City of Trenton, NJ on SEP 3 2009 **AUG 06 2010**  
 Adopted on second and final reading after hearing on \_\_\_\_\_

Rejected by \_\_\_\_\_  
 Approved by [Signature] Mayor      Reconsidered By Council 9/14/2009      Override Vote  Aye       Nay  
[Signature] President of Council      [Signature] City Clerk

# ORDINANCE

## Attachment A

**Delete:** Section 315-70. "Fees" and Section 315 – 73. "Escrow for fees for professional review services"

**Add:** Section 315-70. "Application fees and escrow fees for professional review services.

Every application for development is subject to an application fee, professional development fee, escrow fee for professional review services and administrative fees. These fees must be paid upon submission of any development application to the City of Trenton and must be provided in four separate checks payable to the City of Trenton.

### A. Application fee.

Each application for development shall be accompanied by payment of a non-refundable application fee as set forth in §315-70C. There shall be a separate fee required for preliminary and final site plan applications as well as subdivision and conditional use applications.

### B. Professional development fee.

Per (*N.J.S.A. 40:55D-8(b)*), development applications are subject to a professional development fee to defray the cost of tuition for those persons required to take the course in land use law and planning in the municipality as required pursuant to P.L.2005, c.133 (C.40:55D-23.3 et seq.). All site plan and subdivision applications shall be accompanied by payment of a non-refundable professional development fee as set forth in §315-70C.

### C. Fee Schedule

<u>Type of Application</u>	<u>Application Fee</u>	<u>Professional Development Fee</u>
Site Plan/Subdivision		
Preliminary Site Plan <sup>1</sup>		
Up to 1,000 sf of land area	\$225	\$10
10,001-20,000 sf of land area	\$325	\$20
20,001-40,000 sf of land area	\$400	\$30
Over 40,000 sf of land area	\$450	\$40
Final Site Plan <sup>1</sup>		
Up to 1,000 sf of land area	\$225	\$10
10,001-20,000 sf of land area	\$325	\$20
20,001-40,000 sf of land area	\$400	\$30
Over 40,000 sf of land area	\$450	\$40

# ORDINANCE

Preliminary Subdivision	\$225	\$10
Up to 1,000 sf of land area	\$325	\$20
10,001-20,000 sf of land area	\$400	\$30
20,001-40,000 sf of land area	\$450	\$40
Over 40,000 sf of land area		
Final Subdivision	\$225	\$10
Up to 1,000 sf of land area	\$325	\$20
10,001-20,000 sf of land area	\$400	\$30
20,001-40,000 sf of land area	\$450	\$40
Over 40,000 sf of land area		
Conditional Use Permit	\$200	n/a
Variance	\$200	n/a
Designation of Redevelopment Area & Creation of Redevelopment Area Plan	\$2,500	n/a
Amendment to Redevelopment Plan	\$1,500	n/a

# ORDINANCE

<sup>1</sup> For preliminary and final site plan review there is an additional fee of \$100 for every 50,000 square feet of floor area, or fraction thereof, in excess of the first 50,000 square feet of any development.

## D. Escrow fees for professional review services.

- (1) Each application for development shall be accompanied by payment of an escrow fee in addition to the nonrefundable application fee set forth above, to be deposited with the City. The amount of the escrow fee shall be as set forth in the schedule below:

Type of Application	Escrow Fee
Site Plan Review	\$300 +
Residential Non-Residential	\$100 per dwelling unit \$425 per 1,000 gsf
Subdivision Review	\$300+ \$100 per lot If a subdivision includes the dedication of public roads, the fee shall be \$150 per lot.
Conditional Use Permit Review <sup>1</sup>	\$300 <sup>2</sup>

<sup>1</sup> This fee is applicable to conditional use permit applications that do not require submission of a full site plan, per 315-63B. When a full site plan review is required as part of a conditional use permit application, the site plan review escrow fees shown in the above chart shall apply.

<sup>2</sup> With the exception of conditional use permit applications for telecommunications facilities. Escrow fees applicable to conditional use permit applications for telecommunications facilities are enumerated in Article XXIII, § 315-159.

- (2) Performance standard review required under §315-165: \$300.
- (3) Waiver of escrow requirement. A waiver of all or part of the escrow fee requirement for performance standard review applications or site plan applications containing 10 or fewer residential units, or 20,000 or fewer gross square feet of nonresidential space, may be granted at the sole discretion of the Planning Board, after receiving a staff recommendation. The granting of a full or partial waiver shall be based upon review of a completed application and a finding that the nature of the application and its potential impacts are such that no substantial technical or professional review is required.
- (4) Use of escrow funds. Escrow fees shall be utilized to cover the cost of professional services required for the review of application materials, the conduct of hearings on the application, and necessary follow-up activities arising from approval of an

# ORDINANCE

application, including, but not limited to, engineering, professional planning, environmental analysis, historic preservation, urban design, and traffic analysis.

- (5) Escrow agreement. The applicant shall execute an escrow agreement with the City to authorize payment of such expenses. Sums not utilized by the City in the review process shall be returned to the applicant within a reasonable time after adoption of a resolution of memorialization by the Planning Board or Zoning Board of Adjustment disposing of the pending application, except with respect to matters where either Board approves an application subject to outstanding conditions requiring action, monitoring or analysis by the City or the applicant subsequent to such action. In such cases, escrow funds shall be retained until such time that all outstanding conditions have been satisfied.
- (6) Additional escrow. If the Planning Board or Zoning Board of Adjustment finds that the initial escrow fee deposit is inadequate and that additional funds are deemed necessary to continue processing an application, the applicant shall be notified of the additional amount required, and shall add to his/her escrow fee deposit such additional amount. The Planning Board or Zoning Board of Adjustment may withhold final action on any application until all required escrow fees are paid.
- (7) Issuance of building permit or certificate of occupancy upon payment; lien for payment. No building permit or certificate of occupancy shall be issued until all escrow fee deposits have been made. All charges which are due and owing shall become a lien upon the premises with respect to which such charges are required, and shall remain until paid. The City shall have the same remedies for the collection thereof, with interest, costs and penalties, as it has by law for the collection of taxes upon real estate. All escrow fee deposits shall be administered by the City in accordance with the provisions of N.J.S.A. 40:55D-53.1.

## E. Attorney, Secretary and Planning staff administrative fees

All applications for development shall be charged an additional processing fee for the time that the Attorney, the Planning Board/Zoning Board secretary, stenographer and the Planning Board Planning Staff expend reviewing the application and considering the application for development at the public hearing and any other meetings required.

The applicant shall be assessed the processing fee in quarter hour increments at the following rates:

- a. Attorney \$150/hr
- b. Planning Board/Zoning Board secretary \$30/hr
- c. Stenographer \$275/meeting
- d. Planning Staff
  1. Director- \$75/hr.
  2. Supervising Planner- \$60/hr.
  3. Senior Planner- \$40/hr.

An initial escrow deposit of \$530 shall be submitted to the City Treasurer in an amount of \$530 for one hour of the attorney and Planning Board secretary's rate and two hours of the

# ORDINANCE

Planning staff reviewer's rates. Any unexpended escrow funds for the administrative review shall be returned to the applicant within 30 days after the applicant has secured a certificate of occupancy.

If additional funds are needed from the applicant to pay for the administrative review, the City shall notify the applicant and the applicant shall submit payment to the City within 15 days. The Division of Planning Staff will not sign off on the certificate of occupancy until all administrative fees have been paid to the City.

F.

## Other Administrative Fees

- (1) Certified list of property owners (see §315-35C): \$0.25 per name or \$10, whichever is greater.
- (2) Copy of minutes, transcripts or decisions (see §315-36 and §315-46, per page): \$0.50
- (3) Court reporter. If an applicant desires a court reporter, the cost for taking testimony, transcribing it and providing a copy of the transcript to the City shall be at the expense of the applicant, who shall arrange for the reporter's attendance.