

**CHAPTER 230 LAND USE PROCEDURES**

[HISTORY: Adopted by the Mayor and Council of the Borough of Norwood as Ch. XVII of the Revised General Ordinances. Amendments noted where applicable.]

**GENERAL REFERENCES**

Site plan review — See Ch. 231.

Subdivision of land — See Ch. 232.

Zoning — See Ch. 233.

**ARTICLE I Zoning Board of Adjustment (§ 230-1 — § 230-6)**

[Added 12-7-2004 by Ord. No. 04:20

Editor's Note: Former Art. I, Board of Adjustment, was repealed 2-6-2001 by Ord. No. 01:01. However, Ord. No. 01:01 was subsequently repealed by this ordinance (Ord. No. 04:20), and the Norwood Board of Adjustment was reconstituted. Said ordinance also provided that the Planning Board shall, on the effective date of this ordinance, exercise only those powers authorized by the Municipal Land Use Law and this ordinance, except that any development application that is certified to be complete on or before the effective date of this ordinance may be heard and determined by the Planning Board. The Planning Board will continue to be authorized to hold public hearings on and to render decisions on applications duly filed and certified to be complete on or before the effective date of this ordinance. This ordinance was approved at referendum 11-2-2004.

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**§ 230-1 Establishment.**

Pursuant to N.J.S.A. 40:55D-25(e), there is hereby reconstituted in the Borough a Zoning Board of Adjustment with all powers and functions vested in zoning boards of adjustment.

**§ 230-2 Membership; appointments.**

A.

The Zoning Board shall consist of seven regular members who all shall be residents of the Borough, and who shall be appointed by the Mayor with the consent of the Council.

B.

The members shall hold no other municipal office, and shall not be permitted to act on any matter in which he or she has, either directly or indirectly, any personal or financial interest. Any member may be removed from the Board by the Mayor and Council for cause, after a public hearing, if the member requests the same.

C.

The term of all members shall be for four years, except upon the reconstitution of the Board, as set forth in the following section. All terms shall run from January 1 of the year in which the appointment was made.

D.

The terms of all members first appointed pursuant to this chapter upon the reconstitution of the Board shall be determined, to the greatest extent practicable, so that the expiration of the terms shall be evenly distributed over the first four years after their appointment; provided, however, that no term of any member shall exceed four years. Thereafter, all members shall serve for a four-year term.

E.

Vacancies occurring other than by the expiration of the member's term shall be filled by appointment as above provided, for the unexpired term.

**§ 230-3 Appointment of alternate members.**

A.

The Mayor, with the consent of the Council, shall appoint two alternate members to the Board, which members

shall meet the qualifications of regular members. These members shall be designated at the time of appointment by the Mayor as "Alternate No. 1" and "Alternate No. 2." The terms of the alternate members shall be for two years, except that the terms of the alternate members shall be such that the term of not more than one alternate member shall expire in any one year; provided, however, that no term of the alternate members first appointed may exceed two years. A vacancy occurring otherwise than by expiration of term shall be filled by the Mayor and Council for the unexpired term only.

B.

Alternate members may participate in the discussions of proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. If a choice must be made as to which alternate member is to vote, Alternate No. 1 shall vote.

**§ 230-4                    Organization of Board; powers and duties.**

A.

The Board shall elect a chair and vice chair from the members, and select a secretary, who may be either a member of the Board or a municipal employee designated by the Board. An alternate may not serve as chairperson or vice chairperson.

B.

There is hereby created the office of Board Attorney. The Board may annually appoint and either fix the compensation of or agree upon the rate of compensation of the Board Attorney who shall be an attorney other than the Borough Attorney.

C.

The Board may also employ or contract for the services of and fix the compensation of any experts and other staff and services as it may deem necessary. The Board shall not, however, exceed, exclusive of gifts or grants, the amount appropriated by the Borough Council for its use.

D.

The Board shall file with the Mayor and Council the annual report required by N.J.S.A. 40:55D-70.1.

**§ 230-5                    Zoning Board of Adjustment powers.**

The Zoning Board of Adjustment shall have all of the powers granted to the zoning boards of adjustment by the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., and any amendments or supplements thereto, including the following powers and duties:

A.

To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, or refusal made by an administrative officer or agency based on or made in the enforcement of the zoning regulations of this chapter.

B.

To hear and decide requests for interpretation of the map or zoning regulations of this chapter, or for decisions upon other special questions upon which such board is authorized by this chapter to pass.

C.

To grant variances in accordance with the provisions of the Municipal Land Use Law, including but not limited to variances under N.J.S.A. 40:55D-70(c) and (d) as amended and supplemented.

D.

To direct issuance of a permit pursuant to N.J.S.A. 40:55D-34 for a building or structure in the bed of a mapped street or public drainageway, flood control basin, or public area reserved on the Official Map.

E.

To direct issuance of a permit pursuant to N.J.S.A. 40:55D-36 for a building or structure not related to a street.

F.

Pursuant to N.J.S.A. 40:55D-76(b) and (c) and in accordance with the terms thereof, the Board shall have the power to grant site plan approval or conditional use approval whenever the proposed development requires approval by the Board of a variance pursuant to N.J.S.A. 40:55D-70(d).

G.

Pursuant to N.J.S.A. 40:55D-68, grant a certificate certifying that a use or structure is a nonconforming use or structure, or hear and decide appeals from the administrative officer's denial of a nonconforming use permit.

**§ 230-6                    Administrative procedures; meetings; hearings.**

A.

The Zoning Board shall adopt and may amend reasonable rules and regulations, not inconsistent with state law or any applicable Borough ordinance, for the administration of its functions, powers and duties. Copies of all of these rules and regulations and any amendments thereto shall be filed in the Borough Clerk's office and shall be made available to any person upon request and payment of the fee for such copy.

B.

The Board shall, by its rules, fix the time and place for holding its regular meetings. Regular meetings of the Board shall be scheduled not less than once a month and shall be held as scheduled unless canceled for lack of applications for development process. Special meetings of the Board may be held at the call of the chairman or at the request of any two of its members. Special meetings shall be held on notice to the members of the Board and the public in accord with state law. All regular and special meetings shall be open to the public, and minutes shall be kept and thereafter be made available for public inspection during normal business hours in the office of the Borough Clerk.

C.

The Zoning Board shall hold a hearing on each application for development, appeal, or other application or matter within its jurisdiction. The Board shall make rules governing hearings. Any maps and documents for which approval is sought at the Board's hearings shall be on file and available for public inspection during normal business hours at the Borough Clerk's office at least 10 days before the date of the hearing. The Board shall provide for the verbatim recording of all proceedings at the hearings by either a stenographic, mechanical or electronic means and shall furnish a transcript, or duplicate recording in lieu thereof, on request of any interested party, at any party's expense.

**ARTICLE II            Planning Board (§ 230-7 — § 230-13)**

**§ 230-7                    Establishment.**

Pursuant to the provisions of the N.J.S.A. 40:55D-23, there is hereby created a Planning Board to consist of nine members.

**§ 230-8                    Membership classes; appointments.**

The Planning Board membership shall consist of four classes and the members in each class shall be appointed as follows:

A.

Class I. The Mayor or the Mayor's designee in the absence of the Mayor.

[Amended 12-7-2004 by Ord. No. 04:20]

B.

Class II, one official of the Borough, other than a member of the governing body, to be appointed by the Mayor, provided that if there be an Environmental Commission, the member of such Commission who is also a member

of the Planning Board, as required by N.J.S.A. 40:56A-1, shall be deemed to be a member of Class II in the event the Class IV members of the Board include a member of the Board of Education. If the Class IV members do not include a member of the Board of Education, then the member of the Environmental Commission shall be deemed a Class IV member.

[Amended 2-6-2001 by Ord. No. 01:01]

C.

Class III, a member of the governing body to be appointed by it.

D.

Class IV, six citizens of the borough to be appointed by the Mayor.

**§ 230-9            Appointment of alternate members.**

A.

Alternate members to the Planning Board shall be appointed follows:

(1)

One alternate member shall be appointed for Class II, and one alternate member shall be appointed for Class III, for terms to expire at the same time as the terms of regular members of their respective classes.

(2)

Two alternate members shall be appointed for Class IV to serve for a term of two years; provided, however, that the initial terms of such alternate members shall be one year and two years respectively. Such alternate members shall be designated by the Chairperson as Alternate No. 1 and Alternate No. 2 and shall serve in rotation during the absence or disqualification of any regular member or members of Class IV.

(3)

Alternate members of each class shall be appointed by the same appointing authority as regular members of that class.

**§ 230-10            Membership on other boards; terms.**

A.

The members of Class IV shall hold no other municipal office, except one may be a member of the Board of Education.

[Amended 2-6-2001 by Ord. No. 01:01]

B.

The term of the member composing Class I shall correspond to his official tenure.

C.

The terms of the members composing Class II and Class III shall be for one year or shall terminate at the completion of respective terms of office, whichever occurs first.

D.

The term of a Class IV member, who is also a member of the Board of Education shall terminate whenever he is no longer a member of such body or at the completion of his Class IV term, whichever occurs first.

[Amended 2-6-2001 by Ord. No. 01:01]

E.

The terms of the Class IV members first appointed under this section shall be as follows: the two new members shall be appointed for terms of four years, the member appointed to the seat of a person whose present term expires on December 31, 1976, shall be appointed for a term of three years and the member appointed to the seat of the person whose term expires on December 31, 1977, the member appointed to the seat of the person

whose term expires on December 31, 1978, and the member appointed to the seat of the person whose term expires on December 31, 1979, shall be appointed for terms of four years. In the event a vacancy occurs in the seat of a member in office on August 1, 1976, pursuant to Subsection 81b., N.J.S.A. 40:55D-92, the term of the member appointed to fill the same shall be the initial term set forth in this subsection; thereafter all appointments shall be for four years.

F.

The term of a Class II or IV member who is also a member of the Environmental Commission shall be three years or shall terminate at the completion of his term of office as a member of the Environmental Commission, whichever occurs first.

G.

Vacancies in any class occurring other than by expiration of the Planning Board term shall be filled by appointment as above provided for the unexpired term.

H.

No member shall be permitted to act on any matter in which he has, either directly or indirectly, any personal or financial interest. Any member, other than the Class I member, may be removed from the governing body for cause, after a public hearing, if the member requests the same.

**§ 230-11            Organization: powers and duties.**

A.

The Planning Board shall elect a Chairman and Vice Chairman from the members of Class IV, select a Secretary who may be either a member of the Board or a municipal employee and fill such other offices as may be established by borough ordinance. It may employ or contract for and fix the compensation of legal counsel, experts and other staff and services as it deems necessary, not exceeding, exclusive of gifts or grants, the amount appropriated by the governing body for its use. The Board shall have and exercise its power in regard to:

(1)

The Master Plan.

(2)

Subdivision, control and site plan review.

(3)

The Official Map.

(4)

Chapter 233, Zoning, including conditional uses.

(5)

The capital improvements program.

(6)

Variances and certain building permits in conjunction with subdivision, site plan and conditional use approvals.

(7)

Exercising, to the same extent and subject to the same restrictions, all the powers of a Board of Adjustment; but the Class I and Class III members shall not participate in the consideration of applications for development which involves relief pursuant to subsection d of Section 57 of P.L. 1975, c. 291 (N.J.S.A. 40:55D-70d).

[Added 2-6-2001 by Ord. No. 01:01]

B.

In addition, the Planning Board may participate in the preparation and review of programs or plans required by state or federal law or regulation, assemble data on a continuing basis as part of a continuous planning process and perform such other advisory duties as may be assigned to it by ordinance or resolution of the governing body

for the aid and assistance of the governing body or other municipal agencies or offices.

**§ 230-12            Administrative procedures; meetings; hearings.**

A.

The Planning Board shall adopt and may amend reasonable rules and regulations, not inconsistent with state law or any applicable borough ordinance, for the administration of its functions, powers and duties. Copies of all such rules and regulations and any amendments thereto shall be filed in the office of the Borough Clerk and shall be made available to any person upon request and payment of the fee for such copy.

B.

The Board shall, by its rules, fix the time and place for holding its regular meetings. Regular meetings of the Board shall be scheduled not less than once a month and shall be held as scheduled unless canceled for lack of applications for development process. Special meetings of the Board maybe held at the call of the Chairman or at the request of any two of its members. Such meetings shall be held on notice to the members of the Board and the public in accord with state law. All regular and special meetings shall be open to the public and minutes shall be kept and thereafter be made available for public inspection during normal business hours the office of the Borough Clerk.

C.

The Planning Board shall hold a hearing on each application for development, or adoption, revision or amendment of the Master Plan. The Board shall make rules governing such hearings. Any maps and documents for which approval is sought at such hearings shall be on file and available for public inspection during normal business hours at the office of the Borough Clerk at least 10 days before the date of the hearing. The Board shall provide for the verbatim recording of all proceedings at such hearings by either a stenographic, mechanical or electronic means and shall furnish a transcript, or duplicate recording in lieu thereof, on request of any interested party, at such party's expense.

**§ 230-13            Architectural control and site review; purpose.**

The Borough Council hereby finds and determines that it is important to the borough that excessive uniformity, dissimilarity, inappropriateness or poor quality of design in the exterior appearance of buildings has an adverse effect on the desirability of the immediate area and neighboring areas and by so doing impairs the benefits of occupancy of existing property in such areas, impairs the stability and value of both improved and unimproved property in such areas, prevents the most appropriate development of such areas, produces degeneration of property in such areas and destroys a proper relationship between the taxable value of real property in such areas and the cost of municipal services provided therefor. It is the purpose of this section and the following sections to prevent these and other harmful effects of such exterior appearances of buildings and thus promote and protect the health, safety, morals, values and general welfare of the community.

**ARTICLE III        Advisory Committee (§ 230-14 — § 230-17)**

**§ 230-14            Creation; membership; qualifications; officers.**

There is hereby created an Advisory Committee of Architectural Design and Site Review to the Planning Board which shall consist of five members who shall serve without compensation at the pleasure and by the appointment of the Mayor. The members shall be specifically qualified by reason of training or experience in architecture, land development, municipal planning, real estate, landscape design or other relevant business or profession or by reason of civic interest or sound judgment to determine the effects of a proposed building and its design upon the general aesthetics, desirability and property value or development of a surrounding area. The Chairman and the Vice Chairman of the Advisory Committee shall be elected by the Committee. The Chairman shall appoint a Recording Secretary of the Committee and the Committee shall be furnished with such stenographic or secretarial assistance as the governing body may from time to time provide. One member of the Planning Board shall be appointed by the Chairman of the Planning Board to act as liaison between the Advisory Committee and the Planning Board.

**§ 230-15            Powers and duties.**

It shall be the duty of the Advisory Committee to review the architectural and site plans as stipulated herein and make recommendations concerning these matters to the Planning Board and to the Construction Official as is herein provided. Meetings of the Advisory Committee of Architectural Design and Site Review shall be held at the call of the Chairman but shall also be held within 30 days of the date of the receipt of any application for a building permit referred to the Committee as is required by this article. The Committee shall render a decision and make it known to the Planning Board and the Construction Official its recommendations within 10 days after the meeting in which the particular subject matter was voted upon. A majority of the Committee shall constitute a quorum and its minutes shall show the vote of each member upon each question. The Planning Board may establish bylaws and rules to facilitate the operation of the Committee.

**§ 230-16            Basis of design and site review decisions.**

After considering the recommendations of the Committee, the Planning Board may recommend to the Construction Official that he disapprove any application for a building permit, provided that such recommendation shall be a majority vote of the members of said Board present at any meeting where said vote is taken, and provided that the Planning Board finds that the building, structure, siding, sign or fence for which the permit was applied, would, if erected, be so detrimental to the desirability, property values or development of surrounding areas as to provide one or more of the harmful effects as set forth by reasons of:

A.

Excessive similarity to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application, facing upon both sides of the same street and within 250 feet of the proposed site, in respect to one or more of the following features of exterior design and appearance:

(1)

Apparently identical facade.

(2)

Substantially identical size and arrangement of either doors, windows, porticos or other openings or breaks in the facade facing the street, including reverse arrangement.

(3)

Other significant identical features, such as, but not limited to, material, roofline and height or other design elements, provided that a finding of excessive similarity shall state not only that such similarity exists but, further, that it is of such a nature as to be expected to provoke beyond reasonable doubt one or more of the harmful effects set forth.

B.

Excessive dissimilarity or inappropriateness in relation to any other structure existing or for which a permit has been issued, or for any other structure included in the same permit application which structure so described will face upon the same street and within 250 feet of the proposed site in respect to one or more of the following features:

(1)

Cubical contents.

(2)

Gross floor area.

(3)

Heights of building or height of roof.

(4)

Other significant design features, such as but not limited to quality of architectural design, provided that a finding of excessive dissimilarity or inappropriateness shall state not only that such dissimilarity or inappropriateness

exists but, further, that it is of such nature as to be expected to provoke beyond reasonable doubt one or more of the harmful effects set forth and that the finding is not based on personal preferences as to taste or choice of architectural style.

**§ 230-17            Referral of building permit applications; submission of site and plat plans; review; disposition; appeal.**

A.

Every application for a building permit for the construction, reconstruction or alteration of a building or structure in excess of 2,000 cubic feet of cubical content proposed for construction with the borough or for a sign or fence or application of new siding within the borough shall be referred by the Construction Official to the Committee of Architectural Design and Site Review within 10 days of the date of the receipt of the application provided it conforms in all respects to all other applicable laws and ordinances. Applications must be accompanied by plat plans showing building lines within the block. The site plan shall be submitted showing contours at five-foot intervals, location of trees over six inches in diameter or all trees on a public right-of-way or other type of topographical features when such information is required by the Advisory Committee or deemed necessary by the Construction Official.

B.

For any use permitted in any zone, the plat shall also indicate on the site plan signs, fences and walls, landscaped areas and plant materials, trees and shrubs to be provided, utility lines, parking areas and entrances and exits therefrom, together with the location of all existing structures within 100 feet of the tract. Prior to approving the application for a plat in these zones, the Construction Official shall forward the application, together with all pertinent data and information, including requirements and comments of all interested municipal departments and officials to the Planning Board. The Planning Board shall, within 45 days of the receipt of the same, review the entire matter with a view toward ascertaining whether the requirements and standards of this section have been met, as well as the relationship of the proposed project to the Master Plan of the borough as it is developed and shall make a written report thereon to the Construction Official. No building permit shall be issued by the Construction Official upon such application before the expiration of such forty-five-day period unless an earlier decision is rendered by the Planning Board. If no report is received during that period, the Construction Official shall thereupon issue a permit. Any applicant wishing to make a change in a duly approved application shall follow the same procedure for obtaining approval thereof as in the original application. In the event that the Planning Board recommends against granting a building permit, the Construction official shall not override the recommendations of the Planning Board unless his action is approved by the Borough Council.

C.

The aggrieved party may file an appeal to the Council within 10 days after his building permit application is denied, and the Council shall render its decision within 30 days following the first public meeting after receipt of notice of appeal by the Borough Clerk. In the event that there shall be no action taken by the Council within said thirty-day period, the appeal shall be deemed denied.

**ARTICLE IV            Fee Schedule for Planning Board and Board of Adjustment (§ 230-18 — § 230-19)**

[Amended 2-6-2001 by Ord. No. 01:01]

**§ 230-18            Planning Board fees.**

Planning Board fees shall be as follows:

Type	Fee
Use permit	\$100
Erasure of lot lines, each	\$50
Major subdivision	\$100
Each lot of a subdivision, each	\$50
Site plan approval	\$100
Minor subdivision	\$50
Application fee	\$50
Variance	\$50

**§ 230-19**            **Board of Adjustment fees.**

[Added 11-4-2009 by Ord. No. 09:12

Editor's Note: This ordinance also amended the title of Article V to include "Board of Adjustment."

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Board of Adjustment fees shall be as follows:

Type	Fee
Variance under N.J.S.A. 40:55D-70(c)	\$100
Site plan and subdivision	\$100
Appeals and requests for interpretation	\$100
Variance under N.J.S.A. 40:55D-70(d)	\$250
Tennis court approval, each	\$50
Swimming pool approval	\$50
Zoning permit	\$0

**ARTICLE V**            **Escrow Accounts (§ 230-20 — § 230-30)**

[Added 5-5-1998 by Ord. No. 98:03]

**§ 230-20**            **Establishment of accounts.**

In addition to the required application fees established by this chapter, an applicant for any development application shall be required to establish one or more escrow accounts with the Borough of Norwood to cover the reasonable and necessary review and consultation costs and fees of the borough's professional personnel and shall be responsible to reimburse the borough for all payments made to the professional personnel, in accordance with the terms of this chapter and the Municipal Land Use Law.

**§ 230-21**            **Use of accounts.**

The escrow accounts shall be used to reimburse the borough for all costs of professional services of professional personnel incurred and paid by it necessary to process an application for development before a municipal agency such as but not by way of limitation:

A.

Charges for reviews by professional personnel of applications and accompanying documents.

B.

Issuance of reports by professional personnel to the municipal agency setting forth recommendations resulting from the review of any documents submitted by an applicant.

C.

Charges for any telephone conference or meeting required or initiated by the applicant, his attorney, or any of his experts.

D.

Review of additional documents submitted by the applicant and issuance of reports relating thereto.

E.

Review or preparation of easements, developer's agreements, deeds, resolutions or the like.

F.

Preparation for and attendance at meetings and site inspections of improvements.

G.

The cost of expert advice or testimony obtained by the municipal agency for the purpose of corroborating testimony of an applicant's experts provided that the municipal agency gives prior notice to the applicant of its intention to obtain such additional expert advice or testimony and affords the applicant an opportunity to be heard as to the necessity for such additional advice or testimony and the definition of the limitations on the nature and extent thereof.

**§ 230-22            Scope of charges and rates.**A.

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. The hourly charges of professionals shall be at the same rate as all other work of the same nature by the professional charged to the borough when fees are not reimbursed or otherwise imposed on applicants or developers. 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 the conditions of approval or review of requests for modification or amendment made by the applicant. A professional shall not review items that 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 site approvals on the subdivision or site plan.

B.

The term "professional personnel" or "professional services" as used herein shall include the services of a duly licensed engineer, surveyor, planner, attorney, realtor, appraiser or other expert who would provide professional services to ensure that an application meets the standards set forth in the applicable ordinances and statutes and other experts whose testimony is in an area in which the applicant has presented expert testimony.

C.

Inspection fees shall be charged only for actual work shown on a subdivision or site plan or required by an approved resolution. 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.

D.

If the borough retains a different professional or consultant in the place of a 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 to the deposit or the escrow

account for any such services.

**§ 230-23            Escrow deposit fees.**

Upon the filing of an application as set forth in § 230-20 of this article, an applicant shall deposit with the Board Secretary the initial escrow deposits set forth below. Deposits shall be made by personal check, certified check or money order payable to the borough. The following are the initial required escrow deposits:

A.

Site plans.

(1)

Concept plan. No charge where the applicant asks for review without input and advice from the Board's professional advisors. Where the applicant requests review with input and advice from the Board's professional advisors, there shall be a minimum escrow deposit fee of \$1,000.

(2)

Preliminary site plan. For any site plan involving nonresidential development there shall be a review fee of \$50 for the first 20,000 square feet of lot area or fraction thereof, plus \$10 for each 10,000 square feet or fraction thereof of lot area over 20,000 square feet, plus \$50 for the first 1000 square feet of floor area of any new building or alteration of or addition to any existing building on the subject property, plus \$10 for each 1,000 square feet or fraction thereof of floor area over 1,000 square feet. For any site plan for residential development, the review fee is \$100 for each acre, or part thereof, in the development site and \$40 for each proposed dwelling unit. No site plan for preliminary approval shall have a review fee less than \$1,000.

(3)

Final site plan. The final site plan review fee shall be one-half the preliminary site plan review fee prorated. Any site plan containing both nonresidential and residential development shall pay a fee that equals the collective technical review fee of the nonresidential and residential parts as above outlined.

B.

Conditional use. The review fee for a conditional use shall be \$1,000.

C.

Subdivision:

(1)

Concept plan. No charges where the applicant asks for review without input and advice from the Board's professional advisors. Where the applicant requests review with input and advice from the Board's professional advisors, there shall be a minimum escrow deposit fee of \$1,000.

(2)

Minor subdivision or resubdivision. One hundred dollars for each lot within the proposed subdivisions or \$500, whichever is greater.

(3)

Preliminary plat of a major subdivision. One hundred dollars for each lot within preliminary plat of subdivision or \$500, whichever is greater.

(4)

Final plat of a major subdivision. Fifty dollars for each lot within the final plat of subdivision.

D.

Variance under N.J.S.A. 40:55D-70d.

(1)

When no site plan or subdivision is sought, \$1,000 for each variance.

(2)

When a variance is sought in connection with an application listed in Subsections A through C of this article, no charge.

E.

For applications involving a combination of approvals, the applicant shall deposit an amount equal to the sum of the deposits as required by Subsections A through D of this section.

**§ 230-24            Estimate of funds required.**

Upon receipt of an application for one of the developments listed in the preceding section, the Board Secretary shall send a copy of the application and one set of all plans and reports to the Municipal Engineer, the Planning Consultant, the Board Attorney and any other professional authorized by the Board. Within seven days of the receipt of same, said professionals shall submit an estimate of funds sufficient in the amount to undertake technical reviews and findings of fact relative to the application. If upon review of those estimates the Board and/or its designee or committee finds that the fees listed in the preceding section are insufficient to pay the estimated necessary costs for examination and review of an application, such additional amount as in the reasonable judgment of the Board will be necessary to pay said costs shall be requested from the applicant.

**§ 230-25            Determination of completeness.**

The approving authority and/or its designee or committee shall not determine an application is complete until the initial escrow deposit is paid.

**§ 230-26            Deposit of escrow funds and payments.**

A.

Deposits received from any applicant in excess of \$5,000 shall be held by the Chief Financial Officer in a special interest-bearing deposit account, and all other deposits may be in a noninterest-bearing account. Upon receipt of bills from professionals and approval of the bills as hereinafter provided for, the Chief Financial Officer may use such funds to pay the bills submitted by the professional or experts. The borough shall not be required to refund an amount of interest paid on a deposit that does not exceed \$100 for the year. If the amount of interest exceeds \$100, the 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 for the purposes for which it was deposited, as the case may be, except that the borough may retain for administrative expenses a sum equivalent to no more than 33 1/3% of that entire amount which shall be in lieu of all other administrative and custodial expenses. All sums not actually so expended shall be refunded to the applicant within 90 days after the final decision by the appropriate municipal agency with respect to such application, upon certification by the Board Secretary that such application has been finally decided.

B.

The Chief Financial Officer shall make all of the payments to professionals for services rendered to the borough or approving authority for review of applications for development, review and preparation of documents, inspection of improvements or other purposes under the provisions of N.J.S.A. 40:55D-1 et seq. 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 for 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 cost that shall be added to any such charges shall be actual out-of-pocket expenses of such professionals or consultants, including normal and typical expenses incurred in processing applications and inspecting improvements. No applicant shall be charged for any municipal, clerical or administrative functions, overhead expenses, meeting room charges or any of the municipal costs and expenses except as provided for specifically by statute, nor shall a municipal professional add any such charge to this bill.

C.

Each payment charged to the deposit for review of applications, review and preparation of documents and inspection of improvements shall be pursuant to a voucher submitted by the professional. All vouchers shall

identify the personnel performing the service and each date the services were performed, the hours spent to one-fourth-hour increments, the hourly rate and the expenses incurred. All professionals shall submit vouchers to the Chief Financial Officer of the borough on a monthly basis in accordance with the schedules and procedures established by the Chief Financial Officer. 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 and the municipal agency for which the services were performed.

D.

The Chief Financial Officer shall prepare and send to the applicant a statement that 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. 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 shall provide the applicant with a notice of the insufficient escrow or deposit balance. In order for work to continue on the development or the application, the applicant shall, within a reasonable time period, post a deposit to the account in an amount to be agreed upon by the borough or approving authority and the applicant. In the interim, any required health and safety inspections shall be made and charged back against the replenishment of funds.

**§ 230-27            Payments required prior to issuance of permits.**

No zoning permits, building permits, certificates of occupancy or any other types of permits may be issued with respect to any approved application for development until all bills for reimbursable services have been received by the borough from the professional personnel rendering services in connection with such application and payment has been made.

**§ 230-28            Close out procedures.**

The following close out procedures shall apply to all deposits and escrow accounts established under the provisions of N.J.S.A. 40:55D-1 et seq. 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 approved in accordance with N.J.S.A. 40:55D-53, in the case of improvement inspection escrows and deposits.

A.

The applicant shall send written notice, by certified mail, to the Chief Financial Officer and the approving authority and to the relevant municipal professional that the application or the improvements, as the case may be, are completed. After receipt of such notice, the 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 the 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.

**§ 230-29            Estimate of cost of improvements.**

The cost of the installation of improvements for the purposes of N.J.S.A. 40:55D-53 shall be estimated by the Borough Engineer based on documented construction costs for the public improvements prevailing in the general area of the Borough. The developer may appeal the Borough Engineer's estimate to the County Construction Board of Appeals, established pursuant to N.J.S.A. 52:27D-1:27.

**§ 230-30            Appeals.**

A.

An applicant shall notify, in writing, the governing body, with copies to the Chief Financial Officer, the approving authority and the professional, whenever the applicant disputes the charges made by a professional for a service rendered to the borough in reviewing applications for development, review and preparation of documents,

inspection of improvements or other charges made pursuant to N.J.S.A. 40:55D-53.2. The governing body or its designee shall, within a reasonable time, 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, established pursuant to N.J.S.A. 52:27D-127, any charge to an escrow account or deposit by any municipal professional or consultant or the cost of the installation of improvements estimated by the Borough Engineer pursuant to N.J.S.A. 40:SSD-53.4. An applicant or authorized agent shall submit the appeal, in writing, to the County Construction Board of Appeals and shall simultaneously send a copy of the appeal to the borough, the approving authority and any professional whose charges are the subject of the appeal. An applicant shall file an appeal within 45 days from receipt of the informational copy of the professional's voucher required by N.J.S.A. 40:55D-53.2(c), 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 statement of activity against the deposit or escrow account required by N.J.S.A. 40:55D-53.2c. 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.

B.

Appeals shall be taken in accordance with the rules and procedures established by the County Construction Board of Appeals.

C.

During the pendency of any appeal, the borough or approving authority 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 guaranties, 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 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, the Chief Financial Officer shall reimburse the deposit or escrow account in the amount of any such disallowed charge or refund the amount to the applicant. If a charge is disallowed after payment to a professional or consultant who is not an employee of the borough, the professional or consultant shall reimburse the borough in the amount of any such disallowed charge.