

*****ADOPTED DECEMBER 5, 2011*****

TOWNSHIP OF DELANCO

ORDINANCE 2011-27

**AN ORDINANCE REPEALING
AND REPLACING §60-1 AND §60-2
OF CHAPTER 60 OF THE
DELANCO TOWNSHIP CODE**

SECTION 1. §60-1 and §60-2 of Chapter 60, entitled “Fee and Escrow Schedule” of the Codified Ordinances of the Township of Delanco are hereby repealed in their entirety and replaced with the following:

§60-1 GENERAL PROVISIONS

This chapter establishes all application fees, escrow deposits and deposits for inspection fees required in connection with any application under Chapters 91 (Site Plan), 100 (Subdivision) and/or 110 (Zoning), of the Delanco Township Code.

1. The application fees set forth below are designed to cover the administrative costs incurred by the Township to process applications. They are non-refundable in nature and they are a set pre-determined amount.
2. Escrow deposits are designed to pay the cost of professional review by the reviewing agency engineer, attorney, planner and other professionals employed by the reviewing agency to review and make recommendations on applications for development. The escrow deposits specified below are merely estimates of the total cost of such professional review for each step of the approval process. Escrow deposits must be posted, together with the corresponding application fee, prior to consideration of the application for development by the reviewing agency or its staff.
3. All on and off-tract improvements required to be installed in connection with an application for development must be inspected by the Township engineer. Inspection fees are designed to cover the cost of those inspections.

§60-2 ESCROW AGREEMENT.

When the application and plans are submitted to the administrative officer, applicants shall be required to execute an escrow agreement, the form and content of which shall be determined by the reviewing agency. The escrow agreement shall contain such terms as the reviewing agency finds are reasonable, necessary or convenient to carry out the intent and purpose of this chapter; shall provide for compliance by the reviewing agency with the requirements of NJSA 40:44D-53.1 and shall contain provisions ensuring the following:

1. That the applicant shall pay all reasonable and necessary costs incurred by the reviewing agency for the technical and professional staff review of the application for development.
2. In the event that more than the sums specified below are required to pay the reasonable costs of such technical and professional review the applicant shall pay all such additional required sums in full.
3. If the applicant, or any individual, corporation or partnership listed on the applicant's corporate/partnership disclosure statement has an outstanding unpaid balance from a prior application, that outstanding unpaid balance must be paid in full before the new application will be heard.
4. Before proceeding with the next step in the approval process applicants must pay all outstanding unpaid professional review fees incurred by the reviewing agency in the preceding step of the approval process.
5. The administrative officer shall track the balances in all escrow accounts and, when additional funds are required, the administrative officer shall notify the applicant of the amount needed to pay current plus reasonably anticipated future professional review fees.
6. If an applicant's escrow account contains insufficient funds to pay current plus reasonably anticipated additional professional review fees, the reviewing agency will conduct no further hearings on the application until the applicant replenishes the escrow account as directed by the administrative officer.
7. That the failure to replenish the escrow account as directed will constitute and be deemed a consent to an extension of time for Board action. Failure to pay within sixty (60) days of demand will result in the application being dismissed without prejudice.
8. That payment of disputed professional review fees is not a waiver of the applicant's right to challenge the reasonableness of such fees and that the procedure established by NJSA 40:55D-53.2 shall be the exclusive method of challenging the reasonableness and/or the necessity of disputed professional review fees.
9. Should a positive balance remain in the applicant's escrow account after the project is complete and all invoices are submitted, the remaining balance will be returned to the applicant by the administrative officer upon written request.

§60-3 SCHEDULE OF FEES AND ESCROW DEPOSITS.

- A. Application fees and escrow deposits shall be paid to the Township of Delanco in accordance with the following schedule:

Delanco Township Fee Schedule

Separate checks must be submitted made payable to the "Township of Delanco".

APPLICATION TYPE	APPLICATION FEE (NONREFUNDABLE)	ESCROW FEE (INITIAL)
VARIANCES		
"a" Variance (Appeal)	\$100	\$500
"b" Variance (Interpretation)	\$100	\$500
"c" Variance (Bulk)	\$100	\$500
"d" Variance (Use)	\$250	\$1,500
Build on Lot Not Fronting on Street	\$100	\$500
NOTE: If an application requires more than one type of variance, the applicant shall pay the fees required for each type requested. For fee and escrow purposes all "c" variances requested shall be considered one variance request.		
MISCELLANEOUS		
Administrative Review	\$100	None
Informal Review	\$150	None
Certificate of Nonconformity	\$250	\$1,500
NOTE: The Administrative Review application fee will be applied to the appropriate Joint Land Use Board application fee if it is determined that the applicant must go before the Board.		
SUBDIVISION PLANS		
Minor Subdivision Plan	\$250	\$500/lot
Preliminary Major Subdivision Plan	\$300	\$250/lot, min \$2,000
Final Major Subdivision Plan	\$300	\$125/lot, min \$1,000
Extension of Preliminary or Final Subdivision Approval	\$100	\$500
Amended Subdivision Plan	Original fee	Original fee
Revised Subdivision Plan	50% of original fee	50% of original fee
NOTE: Revised Subdivision Plan fees shall be charged when development plans are classified as incomplete for any reason. Such fees shall not be required when revised plans are submitted in response to comments from Board members, Board professionals or members of the public during a hearing or to satisfy a condition of approval required by the Joint Land use Board.		
SITE PLANS		
Minor Site Plan	\$200	\$1,000
Site Plan Waiver	\$200	\$1,000
Preliminary Major Site Plan, Residential		
Up to 50 units	\$300	\$2,500
51 to 100 units	\$300	\$3,500
101 to 500 units	\$300	\$5,000
501 units or >	\$300	\$10,000
Preliminary Major Site Plan, Nonresidential		
Under 5,000 sq. ft. of building space	\$300	\$2,500
From 5,001 sq. ft. to 10,000 sq. ft.	\$300	\$3,500
From 10,001 sq. ft. to 50,000 sq. ft.	\$300	\$5,000
50,001 sq. ft. or >	\$300	\$10,000
Final Major Site Plan, Residential or Nonresidential	\$300	\$2,500
Extension of Preliminary or Final Site Plan Approval	\$100	\$500
Amended Site Plan	Original fee	Original fee
Revised Site Plan	50% of original fee	50% of original fee
NOTE: Revised Site Plan fees shall be charged when development plans are classified as incomplete for any reason. Such fees shall not be required when revised plans are submitted in response to comments from Board members, Board professionals or members of the public during a hearing or to satisfy a condition of approval required by the Joint Land use Board.		

Certified List of property owners	\$10 for 40 items or less, \$0.25 for each item over 40	None
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- B. The administrative officer is hereby authorized to exercise his or her discretion to establish an application fee and an escrow deposit if the project is of a nature not expressly included in one of the aforementioned categories. All applications shall be deemed incomplete until the applicant's application fees and escrow deposits have been paid in full.
- C. Where one application for development includes several approval requests, the total sum of all of the individual required application fees and escrow deposits shall be paid.
- D. Each applicant for preliminary or final subdivision or site plan approval (or waiver) shall agree, in writing, to pay all reasonable costs for professional review of the application and for inspection of the improvements required by the Board. Such costs must be paid in full before any approval shall take effect or construction permits are issued.
- E. Application fees and escrow deposits must be submitted in separate checks payable to the Township of Delanco, and submitted to the administrative officer. The Township Chief Financial Officer shall deposit the escrow funds into a developer's escrow account, and the application fees into the Township's general account.
- F. The applicant shall pay all professional fees and other costs incurred by the Township as a result of a special Board meeting held at applicant's request or with applicant's approval.

§60-4 PROFESSIONAL FEE DISPUTE PROCEDURE.

The following is the exclusive method of challenging the reasonableness and/or the necessity of disputed professional review fees. An applicant who wishes to dispute charges made by a professional for services rendered in reviewing an application for development, in preparation of documents, inspecting an improvement or any other charges made pursuant to the provisions of the MLUL must pay the disputed fees "under protest", continue to pay additional fees pursuant to this Escrow Agreement and take the following steps:

1. The applicant shall notify the Township Committee, in writing, that he disputes the charges. Copies of the complaint shall be sent to the Township's Chief Financial Officer, the Board Secretary and the professional whose charges are disputed.
2. The Township Committee, or its designee, shall attempt to mediate the dispute.
3. If the dispute is not resolved to the satisfaction of the applicant he may appeal to the County Construction Board of Appeals.

4. The appeal shall be in writing. The original shall be submitted to the County Construction Board of Appeals with copies to the Township's Chief Financial Officer, the Board Secretary and the professional whose charges are disputed.
5. Appeals to the County Construction Board of Appeals must be filed within forty-five (45) days of the applicant's receipt of the informational copy of the professional's voucher. If the professional has not supplied the applicant with an informational copy of his voucher, then the appeal must be filed within sixty (60) days of the applicant's receipt of the statement of activity against the applicant's escrow account.
6. An applicant may also appeal an ongoing series, or pattern, of excessive and/or inaccurate charges by a professional during a period not to exceed six (6) months. An applicant appealing under this provision need not appeal each charge individually.
7. If the County Construction Board of Appeals hears the appeal it may approve, disapprove, or modify the professional charges appealed as provided in Section 53.2a.b.
8. During the pendency of any appeal, the Township 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 guarantees, the issuance of construction permits or certificates of occupancy, or any other approval or permit because an appeal has been filed or is pending. 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 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 Township, the professional consultant shall reimburse the Township in the amount of any such disallowed charge.

§60-5 INTEREST ALLOCATIONS.

Except as otherwise set forth herein, all interest earned on money deposited pursuant to this Agreement shall become the property of the Township as compensation for administrative services rendered in connection with this Agreement. An applicant shall only be entitled to payment of interest whenever the applicant shall have deposited money in excess of \$5,000 and the amount of interest paid on that money shall exceed \$100 for the year. If the amount of interest exceeds \$100, that entire amount shall belong to the applicant and shall be refunded to the applicant by the Township annually or at the time the deposit is repaid or applied to the

purposes for which it was deposited, as the case may be; except that the Township may retain for administrative expenses a sum no more than one-third of that entire amount, which shall be in lieu of all other administrative and custodial expenses.

§60-6 INSPECTION FEES.

Except in extraordinary circumstances, the developer shall make an initial deposit toward the total cost of inspection fees in an amount of \$500 or 5% of the cost of required improvements, whichever is greater, which cost shall be determined pursuant to NJSA 40:55D-53.4. For those developments for which the reasonably anticipated fees are less than \$10,000, 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. 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 inspections, the developer shall deposit the remaining 50% of the anticipated inspection fees. For those developments for which the reasonably anticipated fees are \$10,000 or greater, fees may, at the option of the developer, be paid in four installments. The initial amount deposited by the developer shall be 25% of the reasonably anticipated fees. When the balance on deposit drops to the 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 inspections, the developer shall make additional deposits of 25% of the reasonably anticipated fees. The Municipal Engineer shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit.

SECTION 2. Severability. In the event that any clause, section, paragraph or sentence of this Ordinance is deemed to be invalid, or unenforceable for any reason, then the Township Committee hereby declares its intent that the balance of this Ordinance not be affected by said invalidity and the balance of this Ordinance remain in full force and effort.

SECTION 3. Effective Date. This Ordinance shall take effect upon its passage, publication and filing with the Burlington County Planning Board as required by law.