

ARTICLE VI

Fees

§ 35-8. APPLICATION FEES. [Ord. No. 94-29 § 118-7; Ord. No. 07-02-OAB § 1; Ord. No. 08-12-OAB § 1; Ord. No. 2014-30-OAB § 1]

- a. The developer shall, at the time of filing a submission, pay the following nonrefundable fee to the Township of Berkeley by cash, check or bank money order. The application fees are to cover the normal operating costs to the Township, such as administrative officers, secretarial costs, preparation of agendas, costs of publication, attendance at meetings by the attorney and other professionals, court reporter fees, and any other costs incurred by the respective boards of an administrative nature, as opposed to professional review fees.
- b. Subdivision Application Fees.
 1. Minor Subdivision, Application Fee — \$750.
 2. Preliminary Approval, Major Subdivision — \$750.
 3. Final Approval, Major Subdivision — \$500.
 4. Minor Site Plan Application — \$500.
 5. Preliminary Site Plan Application — \$1,500.
 6. Final Site Plan Application — \$500.
 7. Variances.
 - (a) Hear and decide application appeals — \$250.
 - (b) Interpretation of Zoning Map and Ordinance — \$250.
 - (c) Hardship Variance — \$250.
 - (d) Use Variance — \$500.
 - (e) Conditional Uses — \$400.
 - (f) Building Permit in Conflict with Official Map or Building Permit for lot not related to a street — \$500.
 - (g) Erection of a structure on an unimproved street pursuant to N.J.S.A. 40:55D-36 of the Municipal Land Use Law — \$500.
 - (h) To construct a fence — \$250.
 - (i) Any and all other types of applications not already covered by this Schedule — \$250.
 8. Extension of Preliminary or Final Major Subdivision or Site Plan Approval — \$500.

9. Amended Preliminary or Final Major Subdivision or Site Plan Approval — \$500.
 10. Improvement Plans for Platted Subdivisions — \$500.
 11. Special Meeting requested by applicant — \$1,500.
- c. Zoning Permits. Each request for a zoning permit shall be accompanied by a payment to the Township of Berkeley in the amount of \$30 for each residential unit and \$60 for a business, commercial or industrial use.
 - d. Waiver of Fees for Zoning Permit for Accessibility by Handicapped Persons to Existing Structures or Facilities. No person shall be charged a zoning permit fee for any construction, reconstruction, alteration or improvement designed and undertaken solely to promote accessibility by the handicapped to an existing public or private structure or any of the facilities contained therein. For the purposes of this section, "handicapped person" means a person who has the total and permanent inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness, and shall include, but not be limited to, any resident of this State who is disabled pursuant to the Federal Social Security Act (42 U.S.C. § 416) or the Federal Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.), or is rated as having 60% disability or higher pursuant to any Federal law administered by the United States Veterans' Act. For the purposes of this subsection, "blindness" means central visual acuity of 20/200 or less in the better, eye with the use of a correcting lens. An eye, which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20°, shall be considered as having a central visual acuity of 20/200 or less.

§ 35-9. ESCROW DEPOSITS. [Ord. No. 94-29 § 118-7.1; Ord. No. 07-02-OAB § 2; Ord. No. 08-12-OAB § 2]

- a. In addition to the initial application fees or charges as set forth in § 35-8, above, the administrative officer shall require escrow deposits in accordance with the provisions of the escrow deposit schedule set forth in § 35-10, below. The Chief Financial Officer of the Township shall make all payments to professionals for services rendered to the Township or approving authority to the Board 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. 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 inspection 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 Township. The only costs to be added to 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 Township, clerical or administrative functions, overhead expenses,

meeting room charges or any of the Township costs and expenses except as provided for specifically by statute, nor shall a Township professional add any such charge to his bill.

- b. The Township shall be entitled to reimbursement for the review of applications, both as to completeness and as to content; for the review and preparation of documents such as, but not limited to; drafting resolutions, developer's agreements, and necessary correspondence with applicant or applicant's professionals.
- c. The fees in this chapter are promulgated on the basis of the applicant's submitting completed applications and plans in conformance with the applicable ordinances. These fees are based upon an initial review by the professional, together with one subsequent review to verify the applicant's response to various items listed in the professional's reports.
- d. The fee schedule contained herein is an estimated cost for Township costs related to the land development review process. Nothing contained herein shall prohibit the applicable Board from requiring the applicant to reimburse the Township for all reasonable professional review costs of the application as determined by the Township Treasurer. Any application lacking sufficient funds to permit the Board to proceed shall be dismissed without prejudice.
- e. Whenever an amount of money in excess of \$5,000 shall be deposited by an applicant with Berkeley Township for professional services employed by the Township to review applications for development, the money, until repaid or applied to the purpose for which it is deposited, including applicant's portion of the interest earned thereon, except as otherwise provided in this chapter, shall continue to be the property of the applicant and shall be held in trust by the Township. Money deposited shall be held in escrow. The Township agency receiving the money shall deposit it in a banking institution or savings and loan association in this State insured by an agency of the Federal government, or in any other fund or depository approved for such deposit by the State, in an account bearing interest at the minimum rate currently paid by the institution or depository on time or savings deposit. The Township 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, that entire amount shall belong to the applicant and shall be refunded to him 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 equivalent to no more than 33 1/3% of the 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.

§ 35-9.1. through § 35-9.4. (Reserved)

§ 35-9.5. Appropriate Escrow Account to Be Maintained by Applicant. [Ord. No.

2017-38-OAB]

- a. Purpose. Pursuant to the New Jersey Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., applicants for development before the Township's Land Use Boards are required to establish and maintain an escrow account so as to cover professional fees incurred by the Land Use Board for review of the applicant's plan for development. At times, applicants for development fail to maintain said escrow accounts resulting in the applicant receiving the benefit of the services provided by the Board's professionals in requiring the municipality to attempt to collect funds by way of a civil proceeding at great cost and expense to the taxpayers. It is the intention of this subsection to establish a municipal ordinance violation for failure of an applicant for development to maintain an escrow account and to be notified to do so, establishing penalties with respect thereto.
- b. Failure to Maintain Appropriate Escrow Account. Any applicant for development before a Berkeley Township Land Use Board who is required by ordinance to establish and/or maintain an escrow account, and who fails to provide sufficient funds in said account after being notified to do so by the Township of Berkeley, shall be considered to have violated the terms and conditions of this subsection. A certification from a Township's Chief Financial Officer and/or Assistant Treasurer, that an applicant for development was provided notice, by way of regular mail and certified mail with a return receipt that their escrow account was deficient, and that 30 days have elapsed since notice was sent by way of regular mail to the applicant for development and said escrow account had not been replenished during that period of time shall constitute prima facie evidence that the applicant for development has violated the terms of this subsection.
- c. Penalty. Any person or entity who violates the terms and conditions of this subsection shall be subject to a fine no less than \$250 and no more than \$1,000 for each such violation. Each separate day that a violation continues, meaning for each separate day that the escrow account remains deficient, shall be considered a separate and distinct violation.

§ 35-10. SCHEDULE OF ESCROW DEPOSITS. [Ord. No. 07-02-OAB § 3; Ord. No. 8-12-OAB § 3]

- a. Minor Subdivision. - \$500 (for each lot formed by the minor subdivision) - \$1,500 minimum.
- b. Preliminary Approval, Major Subdivision.

Number of Lots	Fee
0 to 10	\$3,000
11 to 24	\$3,250 + \$60/lot
25 to 100	\$5,500 + \$50/lot
101+	\$12,500 + \$15/lot

- c. Final Approval, Major Subdivision. Final approval, 1/2 of the preliminary plat application fee, with a minimum fee of \$2,000 for each subdivision.
- d. Upon receipt of final or minor subdivision approval, the applicant shall be required to post with the Township Clerk an amount equal to the estimated cost of revising the Township tax map to reflect such approval. Such cost shall be based upon an estimate to be prepared by the Township Engineer. No subdivision plat or deed shall be signed by Board officials unless such cost shall have been posted with the Township Clerk in accordance with this chapter. The amount posted by the applicant shall be placed by the Township in an escrow account to defray engineering costs for tax map revisions.
- e. Sectionalization or Staging Plan Approval for Previously Approved Final Plats. \$350.
- f. Certificate of Subdivision. \$100.
- g. Preliminary Site Plan Application. (New Nonresidential Development, including any alterations, additions or changes or use)

Acreage	Fee
Up to 2.0 acres	\$3,500
Over 2.0 acres	\$3,500 plus \$500/acre or portion thereof for each additional acre

- h. Public, Quasi-Public and Nonprofit Institutions and Agencies not subject to approval of other government agencies, churches and other similar uses.

Acreage	Fee
Up to 2.0 acres	\$500
Over 2.0 acres	\$1,000

- i. Residential Dwelling Units, such as Multifamily Development and Condominium Development. \$125 per dwelling unit, minimum fee \$2,500.

§ 35-10.1. Final Site Plan Application. [Ord. No. 94-29 § 118-7.2B; Ord. No. 07-02-OAB § 4; Ord. No. 08-12-OAB § 4]

- a. New Construction.

Acreage	Fee
Up to 2.0 acres	\$2,250
Over 2.0 Acres	\$2,500 plus \$250/acre or portion thereof for each additional acre

- b. Public and Quasi-Public.

Acreage	Fee
Up to 2.0 acres	\$250
Over 2.0 Acres	\$500/acre or portion thereof for each additional acre

- c. Residential Dwelling Units. \$75 per unit, minimum fee of \$1,500.

§ 35-10.2. Minor Site Plan Application. [Ord. No. 94-29 § 118-7.2C; Ord. No. 07-02-OAB § 5; Ord. No. 08-12-OAB § 5]

- a. All Uses and Construction - \$1,500.
- b. All Variances in conjunction with Minor Site Plan - \$150.
- c. All Design Waivers in conjunction with Minor Site Plan - \$250.

§ 35-11. VARIANCES. [Ord. No. 94-29 § 118-7.3; Ord. No. 07-02-OAB § 6; Ord. No. 08-12-OAB § 6; Ord. No. 2014-30-OAB § 2]

- a. Hear and decide application appeals - \$750.
- b. Interpretation of Zoning Map and Ordinance - \$750.
- c. Variances involving pools or additions or modifications to an existing residential dwelling - \$1,500.
- d. Hardship variances involving new residential construction on undersized lots and all nonresidential hardship variances - \$2,000 for the first variance, plus \$250 for each additional hardship variance (i.e., per dimension, lot, unit, etc.)
- e. Other variances under N.J.S.A. 40:55D-70c - \$2,000.
- f. Use Variance - residential or nonresidential - \$2,000, plus \$250 for additional variances.
- g. Conditional Uses - \$1,500.
- h. Building permit in conflict with official map or building permit for lot not related to a street - \$500.
- i. Erection of a structure on an unimproved street pursuant to N.J.S.A. 40:55D-36 of the Municipal Land Use Law - \$1,750, plus \$250 for each additional variance.
- j. Construction of a Fence - \$1,500.
- k. Any and all other types of variances or design waivers not already covered - \$2,000.

§ 35-12. AMENDED DEVELOPMENT APPLICATIONS, RE-APPROVALS, INFORMAL REVIEWS, ZONE CHANGE REQUESTS, IMPROVEMENT PLAN APPLICATIONS AND SPECIAL MEETINGS. [Ord. No. 94-29 § 118-7.4;

Ord. No. 07-02-OAB § 7; Ord. No. 08-12-OAB § 7]

- a. Planning Board informal review of Subdivisions or Site Plans - \$1,000.
- b. Re-Zone Applications - \$2,000.
- c. Reapproval of Subdivisions or Site Plans - 50% of original fee.
- d. Extension of Preliminary or Final Major Subdivision or Site Plan Approval - \$1,000.
- e. Amended Preliminary or Final Major Subdivision or Site Plan Approval - 50% of original fee - \$750 minimum.
- f. Improvement Plans for Platted Subdivisions - Final Subdivision Fee - \$2,500 minimum.
- g. Special Meeting requested by applicant - \$1,500.

§ 35-13. MISCELLANEOUS FEES. [Ord. No. 94-29 § 118-7.5; Ord. No. 97-31; Ord. No. 03-14-OAB; Ord. No. 07-02-OAB § 8; Ord. No. 08-12-OAB § 8]

- a. Exception to Design and Performance Standards. \$250 for one category design or performance standard plus \$150 for each additional category.
- b. Zoning Permits. Each request for a zoning permit shall be accompanied by a payment to the Township of Berkeley in the amount of \$30 for each residential unit and \$60 for a business, commercial or industrial use.
- c. Waiver of Fees for Zoning for Accessibility by Handicapped Persons to Existing Structures or Facilities. No person shall be charged a zoning permit fee for any construction, reconstruction, alteration or improvement designed and undertaken solely to promote accessibility by the handicapped to an existing public or private structure or any of the activities contained therein.

For the purposes of this section, "handicapped person" means a person who has the total and permanent inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment, including blindness, and shall include, but not be limited to, any resident of this State who is disabled pursuant to the Federal Social Security Act (42 U.S.C. § 416), or the Federal Railroad Retirement Act of 1974 (45 U.S.C. § 231 et seq.) or is rated as having 60% disability or higher pursuant to any Federal law administered by the United States Veteran's Act. For the purposes of this subsection, "blindness" means central visual acuity of 20/20 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20° shall be considered as having a central visual acuity of 20/200 or less.

§ 35-14. REPRODUCTION OF RECORDS. [Ord. No. 94-29 § 118-7.6; Ord. No. 99-17-OAB § 2; Ord. No. 07-02-OAB § 9; Ord. No. 08-12-OAB § 9]

- a. Copies of Rules and Regulations - \$25.
- b. Duplication of Tape Recordings - \$25.
- c. Photocopy of any Township minutes or records \$0.75 for the first page to the tenth page; \$0.50 per page from the eleventh page to the twentieth page and \$0.25 per page for all pages over 20 in number.
- d. Zoning Map or Tax Map Sheet - \$10.
- e. Tax Map Maintenance.
 - 1. Minor Subdivision.
 - (a) \$200 for the first two lots created.
 - (b) \$50 for each additional lot.
 - 2. Major Subdivision.
 - (a) Less than 10 lots - \$1,000.
 - (b) 11 to 50 lots - \$1,500.
 - (c) 51 to 100 lots - \$2,000.
 - (d) 100+ lots - \$3,000 plus \$250 for each additional 50 lot increment or portion thereof.
 - 3. Residential Condominium Projects.
 - (a) \$500 plus \$10 per unit.
- f. Copy of Master Plan - \$100.

§ 35-15. REPLENISHMENT OF DEVELOPMENT APPLICATION FEES. [Ord. No. 94-29 § 118-7.7; Ord. No. 07-02-OAB; Ord. No. 08-12-OAB § 10]

Whenever the account established for the applicant's development review fees paid pursuant to this article has been depleted to 20% of the original development application fee amount, the Township Treasurer shall notify the applicant, and the applicant shall immediately upon notification replenish the account by depositing 50% of the original development application fee into an escrow account with the Township. No approving authority or its professional staff shall take any further action on the application, nor shall any plats be signed or construction commenced or completed until adequate additional fees have been deposited with the Township. Any application lacking sufficient funds to permit the Board to proceed shall be dismissed without prejudice.

§ 35-16. PROCEDURE FOR ESCROW FUNDS. [Ord. No. 08-12-OAB § 11]

- a. Deposit of Escrow Funds; Refunds. 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 upon receipt of bills from professionals and approval of said bills as hereinafter provided for, the Chief Financial Officer may use such funds to pay the bills submitted by such professionals or experts. The municipality shall not be required to refund an amount of interest paid on a deposit which 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 him by the municipality 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 municipality 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. Payments. 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 from the professional which voucher shall identify the personnel performing the service, and each date the services were performed, the hours spent to 1/4 hour increments, the hourly rate and the expenses incurred. All professionals shall submit vouchers to the Chief Financial Officer of the municipality 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 municipality simultaneously to (1) the applicant and (2) the municipal agency for whom said services were performed.

The Chief Financial Officer shall prepare and send to the applicant a statement, which 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 municipality or approving authority to perform required application review 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 municipality 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. Any application lacking sufficient escrow funds to permit the Board to proceed, shall be dismissed without prejudice.

- c. 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 municipality from professional personnel rendering services in connection with such application and payment has been made.

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

The applicant shall send written notice by certified mail to the Chief Financial Officer of the municipality 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 of the municipality within 30 days, and shall send a copy simultaneously to the applicant. The Chief Financial Officer of the municipality 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. 40:55D-53. 1, shall be refunded to the developer along with the final accounting.

- e. Scope of Charges. 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. 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 not subject to approval by any State governmental agency, and not under municipal jurisdiction except to the extent consultation with a State agency is necessary due to the effect of State approvals on the subdivision or site plan.
- f. Limitation of Inspection Fees. Inspection fees shall be charged only for actual work shown on a subdivisions or site plan or required by an approving 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.
- g. Substitution of Professionals. If the municipality retains a different professional or consultant in the place of a professional originally responsible for development application review, or inspection of improvements, the municipality 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 municipality or approving authority shall not bill the applicant or charge to the deposit or the escrow account for any such services.
- h. Appeals.
 - 1. 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 municipality in reviewing applications for development, review and preparation of documents, inspection of improvements, or other charges made pursuant to N.J.S. 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. 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 Municipal Engineer pursuant to N.J.S. 40:55D53.4. An applicant or his authorized agent shall submit the appeal in writing to the County Construction Board of Appeals. The applicant or his authorized agent shall simultaneously send a copy of the appeal to the municipality, 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. 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 with 60 days from receipt of the municipal statement of activity against the deposit or escrow account required by N.J.S. 40:55D53.2(c). 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.

2. Appeals shall be taken in accordance with the Rules and procedures established by the County Construction Board of Appeals.
3. During the pendency of any appeal, the municipality 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 or 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 under this subsection. The Chief Financial Officer of the municipality 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 of the municipality 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 a municipality, the professional or consultant shall reimburse the municipality in the amount of any such disallowed charge.

§ 35-17. (RESERVED)