

**TOWNSHIP OF CRANFORD
CRANFORD, NEW JERSEY
ORDINANCE NO. 2019-07**

**AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF CRANFORD,
CHAPTER 255 LAND DEVELOPMENT,
ARTICLE II: DEVELOPMENT ADMINISTRATION, SECTIONS 255-4 AND 255-7**

WHEREAS, the Township Committee of the Township of Cranford has identified increased legal costs associated with attorney review of Planning Board and Zoning Board of Adjustment application review and a need to charge applicants for legal fees, separate from professional fees, associated with the application for land development process; and

NOW, THEREFORE, BE IT ORDAINED by the Township Committee of the Township of Cranford as follows:

SECTION 1: Chapter 255: Land Development Article II: Development Administration, Section 255-4(C), is hereby amended as follows to include:

§ 255-4 Provisions applicable to both Planning Board and Zoning Board of Adjustment.

- A. Conflicts of interest. No member of the Boards shall act on any matter in which he has, either directly or indirectly, any personal or financial interest. Whenever any such member shall disqualify himself from acting on a particular matter, he shall not continue to sit with the Board on the hearing of such matter and shall not participate in any discussion or decision relating thereto.
- B. Compensation. All members of the Boards shall serve without compensation.
- C. Attorneys. There are hereby created the offices of Attorney for the Planning Board and Attorney for the Zoning Board of Adjustment. Each Board may annually appoint and fix the compensation for its Attorney. Such compensation shall be within the appropriation made by the governing body, subject to assessment against individual applications as set forth in §255-7. Neither Attorney shall be the Township Attorney.

SECTION 2: Chapter 255: Land Development, Article II: Development Administration, Section 255-7, is hereby amended as follows:

§255-7. Professional Fees.

- A. As used in this section, the following definitions shall apply:

IN-HOUSE PROFESSIONALS

Engineers, planners, attorneys, traffic officers and other professionals whose salary, staff support and overhead are provided by the Township of Cranford.

OUTSIDE PROFESSIONALS

Engineers, planners, attorneys, traffic consultants and other professionals whose salary, staff support and overhead are not provided by the Township of Cranford. Outside professionals shall include, without limitation, consultants who are not normally utilized by the Township or the reviewing board when an application presents issues which are beyond the scope of the expertise of the professionals who

normally serve the reviewing board or the Township and whom the Township or reviewing board may from time to time reasonably and within its sole discretion determine are necessary for a proper review of the application.

PROFESSIONAL SERVICES

Time spent by a professional engineer, professional planner, attorney, traffic consultant or other professionals in connection with review of an application and/or review and preparation of documents in regard to such application. In appropriate cases, such services shall include, without limitation, attendance at meetings, review of plans, reports, relevant ordinance provisions, statutory law, case law and prior approvals for the same parcel; site inspections; and preparation of resolutions, developer's agreements and other documents.

B. Prospective developers shall bear the cost of all fees for Professional Services in connection with land development matters under consideration by the Planning Board, Zoning Board of Adjustment or the Township Committee.

(1) Said land development matters shall include but not be limited to applications for development, appeals, interpretations, application approvals, amendments to this chapter and amendments to the Master Plan.

(2) All fees and deposits shall be paid at the time of application. In the event that any escrow deposit shall be depleted, the Zoning Officer shall determine the additional deposit required and shall notify the applicant. No application shall be heard or otherwise processed until and unless all fees and deposits have been paid.

C. Fees for Professional Services shall be:

(1) For Professional Services rendered by Outside Professionals to the Township and/or the reviewing board in connection with an application, plus all actual out-of-pocket disbursements incurred in regard to such services. ~~a~~All charges for services by each outside professional shall be billed at the same rate as all other work of the same nature performed by such professionals for the Township when fees are not reimbursed or otherwise imposed on an applicant, plus all actual out-of-pocket disbursements incurred in regard to such services. Charges for professional services of outside professionals shall be based upon a schedule of fees established by resolution, which may include a contract authorized by resolution. Such schedules shall be subject to annual review by the Township Committee.

(2) For Professional Services rendered by In-house Professionals to the Township and/or the reviewing board in connection with an application. ~~Services for in-house professionals shall be billed 200% of the hourly base salary multiplied by the total number of hours of professional services spent by each in-house professional in connection with the application. The hourly base salary of each in-house professional shall be established by ordinance annually.~~

D. Applicable professional services shall be:

~~(1) Services which include but are not limited to inspections, investigations, reviews and attendance at meetings by planners, engineers, architects, landscape architects and other personnel and experts deemed necessary with respect to action on said land development matters.~~

~~(2) Attorney services, including those of the Board and/or Municipal Attorney in connection with an application which is presently pending before, or which has been approved by, a reviewing board. Such services include extraordinary legal research and preparation or~~

~~review of documents, such as performance guaranties, developer and redeveloper agreements, easements, maintenance or property owner's agreements, or any other matters in connection with any approval. Such services shall not include review of applications, attendance at meetings or preparation of resolutions granting or denying applications.~~

ED. A professional shall not review items which are subject to approval by a state governmental agency and which are not under municipal jurisdiction, except to the extent that research or consultation with a state agency is necessary due to the effect of a state approval on the applicant's application.

FE. At the time of filing any application, each applicant shall make a deposit for professional fees in accordance with the schedule contained in § 255-5. The applicant shall pay the deposit required for each approval which is requested or deemed necessary to cover the cost of professional services.

GF. Payments.

(1) The Chief Financial Officer of the Township shall make all of the payments to professionals for services rendered to the Township or approving board for review for applications for development, review and preparation of documents, inspection of improvements or other purposes under this chapter. Such fees or charges are to be based upon the ordinances herein.

(2) Each payment charged to a 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, for each date the service is performed, the hours spent in 1/4 of an hour increments, the hourly rate and the expenses incurred. All professionals shall submit vouchers to the Chief Financial Officer on a monthly basis, in accordance with the schedules and procedures established by the Chief Financial Officer. The professional shall send an information copy of all vouchers or statements submitted to the Chief Financial Officer simultaneously to the applicant. The Chief Financial Officer shall prepare and send to the applicant a statement which shall include an accounting of the 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 the monthly charges exceed \$1,000. If an escrow account or deposit contains insufficient funds to enable the Township or approving board to perform required application reviews or improvements inspections, the Chief Financial Officer shall provide the applicant with a written notice of the insufficient escrow or deposit balance. In order for work to continue on the development or the application, the applicant shall, within 10 days, post a deposit to the account in an amount to be agreed upon by the Township or the approving board and the applicant. With regard to review fees, if the applicant fails to make said deposit within the time prescribed herein, the approving board shall be authorized to dismiss the application without prejudice, subject to the right of the applicant to seek reinstatement of said application by written notice to the Chief Financial Officer that the deposits have been posted. The application will be reinstated upon written notification by the Chief Financial Officer to the approving board that said deposits are, in fact, posted. In the interim, the required health and safety inspections shall be made and charged back against the replenishment of funds. With regard to inspection fees, the Township Engineer shall not perform any inspection if sufficient funds to pay for the inspections are not on deposit. Failure to post or maintain balances in accordance with the requirements of these sections will subject the developer to a stop-work order and/or suspension of construction permits.

- (3) The applicant and Chief Financial Officer shall follow the following close-out procedures for all deposits and escrow accounts established herein. Said procedures shall commence after the approving authority has granted final approval of the development application, including completion of all conditions of said approval, and/or has signed the appropriate subdivision map or deed or after all of the improvements have been approved. The applicant shall send written notice, by certified mail, to the Chief Financial Officer and the approving board 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 has been put within 45 days of the receipt of the final bill. Any balances remaining in the deposit or escrow account, including interest, shall be refunded to the applicant along with the final accounting.
- (4) All professional charges for review of the 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. Inspection fees shall be charged only for actual work shown on a subdivision 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.
- (5) If the municipality retains a different professional or consultant in the place of the professional originally responsible for development, application review or inspection of improvements, the municipality or approving board 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 board shall not bill the applicant or charge the deposit or the escrow for any such services.

HG. Dispute of charges; appeals; rules and regulations. All disputes relating to charges and appeals thereof shall be in accordance with N.J.S.A. 40:55D-53.2a.

SECTION 3. All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency.

SECTION 4. This ordinance shall become effective upon final passage and publication according to law.

Introduced:
Adopted:

Approved:

Patrick F. Giblin
Chairman, Township Committee

Attest:

Patricia Donahue, RMC
Municipal Clerk

Recorded Vote

Introduced

Adopted