

Chapter 1.19

UNIFIED PLANNING/ZONING BOARD; LAND USE PROCEDURES; ESTABLISHMENT; COMPOSITION

Sections:

Editor's Note to Chapter 1.19

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GENERAL REFERENCES

- Uniform Construction Codes** – See Ch. 63
- Flood damage prevention** – See Ch. 76
- Site plan review** – See Ch. 109
- Subdivision of land** – See Ch. 115
- Zoning** – See Ch. 130

(HISTORY: Originally adopted on 1-25-77)

(Ord. 2006-20, Added 11/8/2006; Ord. 96-05, Added, 09/25/1996; Ord 88-2, Replaced 02/16/1988)

1.19.01 Unified Planning/Zoning Board; Land Use Procedures; Establishment; Composition

- A. There is hereby established pursuant to P.L. 1985, c.516 in the Borough of Englishtown a Unified Planning/Zoning Board of nine (9) members consisting of the following four (4) classes:
- (1) *Class I*: The Mayor
 - (2) *Class II*: One (1) of the officials of the municipality other than a member of the governing body to be appointed by the Mayor.
 - (3) *Class III*: A member of the governing body to be appointed by it.
 - (4) *Class IV*: Six (6) other citizens of the municipality to be appointed by the Mayor.
- B. The members of Class IV shall hold no other municipal office. A member of The Environmental Commission who is also a member of the Unified Planning/Zoning Board as required by N.J.S.A. 40:56A-1 shall be a Class IV Unified Planning/Zoning Board Member.
- C. Alternate Members
- (1) In addition to the regular members of the Unified Planning/Zoning Board appointed pursuant to this section, there shall be appointed alternate members as follows:
 - (a) Class IV; Two (2) alternate members to be appointed by the Mayor. Said alternates shall thereafter be designated by the Mayor as “Alternate No. 1” and “Alternate No. 2”.
 - (2) Alternate members shall serve in the absence or disqualification of the regular class IV member.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.02 Terms

- A. The terms of the member composing Class I shall correspond with his official tenure. The terms of the members composing Class II and Class III shall be for one (1) year or terminate at the completion of their respective terms of office, whichever comes first. The term of a Class IV member who is also a member of the Environmental Commission shall be for three (3) years or terminate at the completion of his term of office as a member of the Environmental Commission, whichever comes first.
- B. The terms of all Class IV members first appointed pursuant to this chapter shall be so determined that to the greatest practicable extent the expiration of such term shall be distributed evenly over the first four (4) years after their appointment as determined by resolution of the governing body; provided, however, that no term of any member shall exceed four (4) years and further provided that nothing herein shall affect the term of any present member of the Unified Planning/Zoning Board, all of whom shall continue in office until the completion of the terms for which they were appointed. Thereafter all Class IV members shall be appointed for terms of four (4) years except

as otherwise hereinabove provided. All terms shall run from January 1 of the year in which the appointment is made.

C. *Terms of Alternate members.* The alternate members appointed pursuant to Section 19-1 hereby shall have terms as follows:

- (1) *Class IV alternate:* A term of two (2) years beginning on January 1 of the year in which such alternate is appointed, however, during the first year of this chapter, the terms of each alternate shall be one (1) year and two (2) years respectively, as designated by the Mayor, each of which term is to begin as of January 1 of the year of said appointment.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.03 Vacancies

If a vacancy in any class shall occur otherwise than by expiration of term, it shall be filled by appointment as above provided for the unexpired term.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.04 Organization

The Unified Planning/Zoning Board shall elect a Chairman and Vice Chairman from the members of Class IV and select a Secretary who may be either a member of the Planning Board or a municipal employee designated by it.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.05 Attorney

There is hereby created the office of Unified Planning/Zoning Board Attorney. The Unified Planning/Zoning Board may annually appoint, fix the compensation of or agree upon the rate of compensation of the Unified Planning/Zoning Board Attorney who shall be an attorney other than the municipal attorney.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.06 Experts and Staff

The Unified Planning/Zoning Board may also employ or contract for the services of experts and other staff and services, as it may deem necessary. The Board shall not authorize expenditures, which exceed, exclusive of gifts or grants, the amount appropriated by the governing body for its use.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.06.01 Conflicts of Interest

No member of the Unified Planning/Zoning Board 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 nor participate in any discussion or decision relating thereto.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.07 Power and Duties

The Unified Planning/Zoning Board is authorized to adopt by-laws governing its procedural operation. It shall also have the following powers and duties:

- A. To make and adopt and, from time to time, amend a Master Plan for the physical development of the Borough which in the Board's judgment bear essential relation to the planning of the Borough in accordance with the provisions of N.J.S.A. 40:55D-28.
- B. To administer the provisions of the land Subdivision Ordinance, Site Plan Review Ordinance and Zoning Ordinance of the Borough in accordance with the provisions of said ordinances and the Municipal Land Use Law of 1975 (N.J.S.A. 40: 55D-1 et seq.)
- C. To participate in the preparation and review of programs or plans required by state or federal law or regulations.
- D. To assemble data on a continuing basis as part of a continuous planning process.
- E. To annually prepare a program of municipal capital improvement projects over a term of six (6) years, and establish amendments thereto, and recommend same to the governing body.
- F. To consider and make reports to the governing body within thirty-five (35) days after referral as to any proposed development regulation submitted to it pursuant to the provisions of N.J.S.A. 40:55D-26 (a) and also to pass upon other matters specifically referred to the Unified Planning/Zoning Board by the Borough pursuant to the provisions of N.J.S.A. 40:55D-26 (b).
- G. To Review applications for approval of subdivision plats, site plans or conditional uses, and to grant:
 - (1) Variances pursuant to subsection 57c of P.L. 1975 c. 291 from lot area, lot dimensional setback and yard requirements, provided that such relief from lot area requirements shall not be granted for more than one lot.
 - (2) Direction, pursuant to Section 25 of said Act for issuance of a permit for a building or structure in the bed of a mapped street or public drainageway, floor control basin or public area reserved pursuant to section 23 of said Act.
 - (3) Direction, pursuant to Section 27 of said Act for issuance of a permit for a building or structure not related to a street. Whenever relief is requested pursuant to this subsection, notice of a hearing on the application for

development shall include reference to the request for a variance or direction for issuance of a permit, as the case may be.

(4) Variances pursuant to subsection 57(d) of P.L. 1975, c. 291. However, Class I and Class III members shall not participate in the consideration of applications for development which involve relief pursuant to subsection 57(d) of P.L. 1975, c.291.

H. To perform such other advisory duties as are assigned to it by ordinance or Resolution of the governing body for the aid and assistance of the governing body or other agencies or officer.

I. To exercise any of those other powers accorded to a Zoning Board of Adjustment by N.J.S.A. 40:55D-69 et seq. and amendments and supplements thereto, and by the provisions of this chapter

J. The Board shall adopt such rules and regulations as may be necessary to carry into effect the provisions and purposes of this chapter. In the issuance of subpoenas, administration of oaths and taking of testimony, the provisions of J.J.S.A. 2A:67A-1 et seq. shall apply.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.08 Citizens Advisory Committee

The Mayor may appoint one (1) or more persons as a Citizens Advisory Committee to assist or collaborate with the Unified Planning/Zoning Board in it duties, but such person or persons shall have no power to vote or take other actions required by the Board. Such person or persons shall serve at the pleasure of the Mayor.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.09 Notification of Environmental Commission

Whenever the Environmental Commission has prepared and submitted to the Unified Planning/Zoning Board an index of the natural resources of the municipality, the Unified Planning/Zoning Board shall make available to the Environmental Commission an informational copy of every application for development to the Board. Failure of the Board to make such informational copy available to the Environmental Commission shall not invalidate any hearing of proceedings.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.10 Procedure for Filing Applications

A. Applications for development within the jurisdiction of the Unified Planning/Zoning Board pursuant to the provisions of P.L. 1975, c. 291 shall be filed directly with the Secretary of the Board. The applicant shall file in accordance with Unified Planning/Zoning Board Resolution No. 87-11. Development applications must be submitted at least thirty (30) days prior to the regularly scheduled monthly

meeting and pending applications requiring redrafting must be submitted no later than ten (10) days prior to the regular monthly meeting. The applicant shall file twelve (12) copies of a sketch plat, twelve (12) copies of applications for minor subdivision approval, twelve (12) copies of an application for major subdivision approval or twelve (12) copies of an application for site plan review, conditional use approval or planned development. At the time of filing the application in accordance with Unified Planning/Zoning Board Resolution No., 87-11, the applicant shall also file all plat plans, maps or other papers required by virtue of any provision of this chapter or any rule of the Unified Planning/Zoning Board. The applicant shall obtain all necessary forms directly from the Secretary of the Unified Planning/Zoning Board. The Secretary of the Board shall inform the applicant of the steps to be taken to initiate applications and of the regular meeting dates of the Board.

- B. Appeals to the Unified Planning/Zoning Board may be taken by any person aggrieved, or by an officer, department, board or bureau of the municipality affected by any decision of the administrative officer. Each appeal pursuant to § 1.19.8E hereof shall be taken within twenty (20) days by filing a notice of appeal with the officer from whom the appeal is taken and five (5) copies of said notice with the Secretary of the Unified/Planning Board. Said notice of appeal shall specify the grounds for said appeal. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.11 Notification of Hearings

Whenever a hearing is required on an application for development pursuant to N.J.S.A. 40: 55D-1 et seq., the applicant shall give notice at the party's expense.

- A. Public notice shall be given by publication in the official newspaper of the Municipality at least ten (10) days prior to the date of the hearing.
- B. Notice shall be given to the owners of all real property as shown on the current tax duplicate or duplicates located within two hundred (200) feet in all directions of the property which is the subject of such hearing and whether located within or without the municipality in which the applicant's land is located. Such notice shall be given by serving a copy thereof on the owner as shown on the said current tax duplicate, or his agent in charge of the property (if served in person, a signature is required), or by mailing a copy thereof by certified mail to the property owner at his address as shown on the said current tax duplicate. A return receipt is not required. Notice to a partnership owner may be made by service upon any partner. Notice to a corporate owner may be made by service upon its president, a vice-president, secretary or other person authorized by appointment or by law to accept service on behalf of the corporation.
- C. Notice of all hearing on applications for development involving property located within two hundred (200) feet of an adjoining municipality shall be given by personal

service or certified mail to the Clerk of such municipality, which notice shall be in addition to the notice required to be given pursuant to Subsection B hereof to the owners of lands in such adjoining municipality which are located within two hundred (200) feet of the subject premises.

- D. Notice shall be given by personal service or certified mail to the County Planning Board of a hearing on an application for development of property adjacent to an existing county road or proposed road shown on the Official County Map or on the County Master Plan, adjoining other county land or situate within two hundred (200) feet of the municipal boundary.
- E. Notice shall be given by personal service or certified mail to the Commissioner of Transportation of a hearing on an application for development of property adjacent to a state highway.
- F. Notice shall be given by personal service or certified mail to the Director of the Division of State and Regional Planning in the Department of Community Affairs of a hearing on an application for development of property which exceeds one hundred fifty (150) acres or five hundred (500) dwelling units. Such notice shall include a copy of any maps or documents required to be on file with the Municipal Clerk pursuant to Section 6b of P.L. 1975, c. 291.
- G. All notices hereinabove specified in this section shall be given at least ten (10) days prior to the date fixed for hearing, and the applicant shall file an affidavit of proof of service with the Board.
- H. Any notice made by certified mail as hereinabove required shall be deemed complete upon mailing in accordance with the provisions of N.J.S.A. 40:55D-14.
- I. Form of notice. All notices required to be given pursuant to the terms of this chapter shall state the date, time and place of hearing; the nature of the matters to be considered; identification of the property proposed for development by street address, if any, or by reference to lot and block numbers as shown on the current tax duplicate in the Municipal Tax Assessor's office; and the location and times at which any maps and documents for which approval is sought are available as required by law.
- J. It is further the intent of this chapter to confer upon the Unified Planning/Zoning Board powers as full and complete as lawfully may be conferred upon a Zoning Board of Adjustment, including, but not limited to, the authority in connection with any case, action or proceeding before the Board to interpret and construe the provisions of the Zoning Ordinance, or any term, clause, sentence or word thereof, and to interpret the Zoning Map in accordance with the general rules of construction applicable to legislative enactments.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.12 List of Property Owners Furnished

Pursuant to the provisions of N.J.S.A. 40:55D-12c, the Tax Assessor of the Borough of Englishtown shall, within seven (7) days after receipt of a request therefore and upon receipt of payment of a fee of ten dollars (\$10.00), make and certify a list, from the current tax duplicate, of the names and addresses of owners to whom the applicant is required to give notice pursuant to this chapter.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.13 Hearings

- A. *Rules.* The unified Planning/Zoning Board may make rules governing the conduct of hearings before it, which rules shall not be inconsistent with the provisions of N.J.S.A. 40:55D-1 et seq. or of this chapter.
- B. *Oaths.* The officer presiding at the hearing or such person as he may designate shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant evidence, including witnesses and documents presented by the parties, and the provisions of the County and Municipal Investigations Law, P.L. 1953, c. 38 (N.J.S.A. 2A:67-1 et seq.) shall apply.
- C. *Testimony.* The testimony of all witnesses shall be taken under oath or affirmation by the presiding officer and the right of cross-examination shall be permitted to all interested parties through their attorneys, if represented, or directly, if not represented, subject to the discretion of the presiding officer and to reasonable limitations as to time and number of witnesses.
 - A. *Evidence.* Technical rules of evidence shall not be applicable to the hearing, but the Board may exclude irrelevant, immaterial or unduly repetitious evidence.
 - B. *Records.* The Board shall provide for the verbatim recording of the proceedings by either stenographer, mechanical or electronic means. The Board shall furnish a transcript or duplicate recording in lieu thereof on request to any interested party at the party's expense.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.14 Time Limits

- A. **Minor Subdivisions.** Minor subdivision approvals shall be granted or denied within forty-five (45) days of the date of submission of a complete application to the Unified Planning/Zoning Board or within such further time as may be consented to by the applicant. Approval of a minor subdivision shall expire one hundred ninety days from the date of the Board's approval unless within such period a plat in conformity with such approval and the provisions of the Map filing Law, or a deed clearly describing the approved minor subdivision, is filed by the developer with the County

Recording Officer, the Municipal Engineer and the Municipal Tax Assessor. Any such plat or deed must be signed by the Chairman and Secretary of the Unified Planning/Zoning Board before it will be accepted for filing by the County Recording Officer.

- B. **Preliminary (approval) major subdivisions.** Upon submission of a complete application for a subdivision of more than ten (10) lots, the Board shall grant or deny preliminary approval within ninety-five (95) days of the date of such submission or within such further time as may be consented to by the developer. Otherwise, the Board shall be deemed to have granted preliminary approval for the subdivision.
- C. **Ancillary powers.** Whenever the Unified Planning/Zoning Board is called upon to exercise its ancillary powers before the granting of a variance as set forth in § 1.19.7G hereof, the Board shall grant or deny approval of the application or within such further time as may be consented to by the applicant. Failure of the Board to act within the period prescribed shall constitute approval of the application and a certificate of the administrative officer as to the failure of the Board to act shall be issued on request of the applicant.
- D. **Final approval.** Application for final major sub-division approval shall be granted or denied within forty-five (45) days of submission of a complete application or within such further time as may be consented to by the applicant. Final approval of a major subdivision shall expire ninety-five days from the date of signing the plat unless within such period the plat shall have been duly filed by the developer with the county recording officer. The Unified Planning/Zoning Board may for good cause shown, extend the period for recording for an additional period not to exceed one hundred ninety (190) days from the date of the signing of the plat.
- E. **Variances, etc.** The Board shall render its decision no later than one hundred twenty days after the date an appeal is taken from the decision of an administrative officer or the submission of a complete application for development to the Board pursuant to the provisions of N.J.S.A. 40:55D-72. Failure of the Board to render a decision within such one hundred twenty (120) day period or within such further time as may be consented to by the applicant shall constitute a decision favorable to the applicant.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.15 Recording and Filing of Decisions.

- A. Each decision on any application for development or appeal shall be set forth in writing as a resolution of the Board, which shall include findings of fact and legal conclusion based thereon.

- B. A copy of the decision shall be mailed by the Board within ten (10) days of the date of the decision to the applicant, or, if the applicant is represented by counsel, then to his attorney, without charge. A copy of the decision, shall also be mailed to all persons

(Ord. 88-2, Replaced, 02/16/1988)

1.19.16 Publication of Decisions

A brief notice of every final decision of the Board shall be published in the official newspaper of the municipality. Such publication shall be arranged by the applicant. The period of time in which an appeal may be made shall run from the date of publication.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.17 Meetings

- A. Meetings of the Unified Planning/Zoning Board shall be scheduled no less often than once a month and any meeting so scheduled shall be held as scheduled unless cancelled for lack of applications for development or appeals to process.
- B. Special meetings may be provided for at the call of the chairman or on request of any two (2) Board members, which shall be held on notice to its members and the public in accordance with all applicable legal requirements.
- C. No action shall be taken at any meeting without a quorum being present.
- D. All actions shall be taken by majority vote of a quorum except as otherwise required by any provisions of P.L. 1975, c. 291.
- E. All regular meetings and all special meetings shall be open to the public. Notice of all such meetings shall be given in accordance with the requirements of the Open Public Meeting Act, P.L. 1975, c. 231.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.18 Minutes

Minutes of every regular or special meeting shall be kept and shall include the names of the persons appearing and addressing the Board and of the persons appearing by attorney, the action taken by the Board, the findings, if any made by it and the reasons therefore. The minutes shall thereafter be made available for public inspection during normal business hours at the office of the Municipal Clerk. Any interested party may be charged a fee for reproduction of the minutes for his use as provided for in the rules of the Board.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.19 Tax Status

Pursuant to the provisions of N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-65, every application submitted to the Unified Planning/Zoning Board shall be accompanied proof that no taxes or assessments for local improvements are due or delinquent on the property which is the subject of such application.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.20 Expiration of Variance

Any variance from the terms of this chapter granted by the Board permitting the erection or alteration of any structures or permitting a specified use of any premises shall expire by limitation, unless such construction or alteration shall have actually commenced on each and every structure permitted by said variance, or unless such permitted use has actually been commenced, within one year from the date of entry of the judgment or determination of the Board; except, however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Board.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.21 Fees

The applicant/developer shall, at the time of filing an application pay a fee to the Borough of Englishtown by cash, certified check, or money order in accordance with the fee schedule set forth hereinafter. Simultaneously with payment of the fees, the applicant shall submit its Federal Tax Identification number or Social Security Number, together with the name and address for such number if different than the applicant.

(Ord. 88-2, Replaced, 02/16/1988)

1.19.21.1 Non-Refundable Fees – Schedule A

The fees set forth in Schedule A shall be non-refundable and are for the purpose of offsetting in-house administrative, clerical and technical costs, exclusive of expenses for professional consultants, such as legal, planning, engineering and other professional fees, costs and expenses, except as otherwise noted in Schedule A. The fee to be paid shall be the sum of the fees for the component elements of the plat or plan. Proposals requiring a combination of approvals, such as sub-division, site plan and/or variances, shall require a fee equal to the sum of the fees for each element of the approval.

SCHEDULE A – NON-REFUNDABLE FEES

- A. *Copy of Rules and Regulations* – in accordance with N.J.S.A.47:1A-2
- B. *Copy of Minutes* – in accordance with N.J.S.A. 47:1A-2
- C. *Copy of Verbatim Transcript* – at the expense of requesting party

D. *Copy of Decision* – no charge to applicant, all others in accordance with N.J.S.A.47:1A-2

E. *Publication of Notice* of any decision (to be paid at time of application): \$25.00

F. *List of Property Owners* within 200 feet: \$.25 per name or \$10 whichever is greater

G. *Minor Subdivision Application* (Amend Ord. 02-05):

- | | |
|---|----------------------------------|
| 1. Each Informal Review... | \$250 plus
\$ 15 per unit/lot |
| 2. Application Fee... | \$200 plus
\$50 per unit/lot |
| 3. Plat Review Fee...
(Amend 115-39) | \$300.00 |

H. *Major Subdivision Approval* (Amend Ord 02-05)

- | | |
|---|---------------------------------|
| 1. Each Informal Review..... | \$250 plus
\$15 per unit/lot |
| 2. Preliminary Application Fee... | \$1000.00 |
| 3. Preliminary Plat Review Fee... | \$300 per unit/lot |
| 4. Final Plat Application
Fee 50% of Preliminary | |
| 5. Final Plat Review Fee... | \$250 per unit/lot |

I. *Minor Site Plan Approval*

(Less than 2,000 sq. ft of building area and/or fewer than 5 parking spaces)

- | | |
|------------------------------|----------|
| 1. Each Informal Review.... | \$150.00 |
| 2. Application fee..... | \$150.00 |
| 3. Preliminary Review Fee... | \$500.00 |
| 4. Final Review Fee..... | \$250.00 |

J. *Waiver Site Plan Requests* (see 109-9)

K. *Major Site Plan Approval* (2,000 or more sq. ft. of building area and/or more than 5 Parking spaces) (See 109-1; Amend Ord. 02-05)

- | | |
|------------------------------|----------|
| 1. Each Informal Review..... | \$250.00 |
|------------------------------|----------|

2. Preliminary Application Fee... \$500 plus \$100 per 1,000 sq. ft. building area

3. Preliminary Approval Review Fees:

A. Residential (including hotel, motel, multi-family, planned residential and community resident, but not including sheltered care, nursing homes, or other medical/institutional uses), the sum of..... \$250.00 plus...

the sum of each of the following fees as applicable:

1. for each new dwelling unit..... \$100.00 plus...

2. for each remodeled, reconstructed, refurbished or rehabilitated dwelling unit..... \$20.00 plus...

3. for each new or additional parking space:
a. first 100 spaces...\$20.00 per space
b. over 100 spaces...\$30.00 per space

B. Other Uses: the sum of \$250.00 plus...

The sum of each of the following fees as applicable:

1. For each full 1,000 sq. ft. of affected lot area:
a. first 100,000 sq. ft.: \$5/1,000 sq. ft.
b. over 100,000 sq. ft.: \$7.50/1,000 sq. ft.
plus...

2. For each full 100 sq. ft. of proposed new gross floor area:
a. first 50,000 sq. ft.: \$25/100 sq. ft.
b. over 50,000 sq. ft.: \$50/100 sq. ft.
plus...

3. For each proposed new or additional parking space:
a. first 100 spaces: \$10/space
b. over 100 spaces: \$15/space plus....

4. For each 1,000 sq. ft. of remodeled existing gross floor area:
\$10/1,000 sq. ft.plus....

5. Final Application Fee – 50% of the fee for preliminary applications,
Plus...
6. Final Approval Review Fee-50% of the total fees for preliminary approval
set forth above.
7. Submission of Amended Site Plan: the fee shall be ½ of the original appli-
cation fee for the stage of the application (preliminary or final). This fee is
for amendment of plan(s) that have not been granted approval.

L. Variances

1. Appeals (N.J.S.A.40:55D-70(a))
 - a. Single Family Residential
Uses..... \$50.00
 - b. Other uses..... \$250.00
2. Interpretation of the Land Use Ordinance or Map
[N.J.S.A.40:55D-70(b)]... \$150.00
3. Hardship or bulk variance [N.J.S.A.40:55D-70(c)]
 - a. Single Family Residential Uses.....\$100.00
 - b. Other Uses.....\$500.00
4. Use Variance [N.J.S.A. 40:55D-70(d)]
 - a. Proposed Single Family Residential Uses..... \$100.00
 - b. Other Uses..... \$750.00

M. Conditional Uses..... \$250.00

N. Public Hearing Fee

1. Single Family Residential Use..... \$ 50.00
2. Other Uses..... \$250.00

O. Change of Master Plan or one District Requests

- a. Single Family Residential to other single
family residential..... \$500.00
2. Single family residential to multi-family
commercial, industrial, office research,
or other non-single family zone..... \$500.00 plus...

\$25.00 per acre for each acre over 1 acre.

P. Legal Reviews

1. Guarantee Review [109-8]

- a. Review of Performance Guarantee by Borough Attorney or Planning/Zoning Board Attorney \$150/review
- b. Review of Maintenance Guarantee by Borough Attorney or Planning/Zoning Board Attorney \$150/review
- 2. Preparation of Developer’s Agreement by Borough Attorney or Planning/Zoning Board Attorney. \$400/Development Agreement
- 3. Miscellaneous Reviews – Master Deeds, Certificate of Incorporation, Bylaws, Unit Deeds, etc. \$150/review

Q. Inspection fee – As per [N.J.S.A.40:55D-53h]

((When any development proposal approved by the Municipal Agency includes the construction of improvements, the developer, owner, or applicant shall pay to the Borough of Englishtown, prior to the issuance of any development permit or the start of construction as per N.J.S.A. 40:55D-53h.)))

NOTE: The minimum inspection fee shall be \$250 (see 2.109.08)

R. Tax Map Revision Fee.

A fee of two hundred dollars (\$200.00) per lot or unit shall be charged for all minor and major subdivisions, residential unit site plans or condominiums or cooperative residential or commercial development to cover the cost of revising the Borough Tax Map. This fee shall be paid prior to signing of the final plat of a subdivision by the Chairman and the Secretary of the Municipal Agency and Borough Engineer.

S. Revised Plats

Any proposed revisions to a plat, including all supporting maps and documents, previously approved by the Unified Planning/Zoning Board of Adjustment, which approval is still in effect, shall require submission of a revised plan and payment of fees in accordance with the following.

- 1. Where changes in the plat are requested by the Board or Borough engineer, no fees need be paid and only sufficient copies of the plat incorporating the changes as may be necessary for distribution.
- 2. Where there are only minor changes in the plat proposed by the applicant or required by another governmental agency where approval was a condition of the Unified Planning/Zoning Board of Adjustment approval, which do not involve any additional building or parking or significant change in the design of the site or subdivision, an application and application fee of \$25.00 will be required along with sufficient copies of the plat incorporating the changes as may be necessary for distribution.

3. Where there are changes in the plat proposed by the applicant, or required by another governmental agency whose approval was a condition of the Unified Planning/Zoning Board of Adjustment approval, which involve additional building or parking or a significant change in the design of the site or subdivision, an application and application fee equal to one half the fee required for the initial submission, will be required along with sufficient copies of the plat incorporating the changes as may be necessary for distribution.
4. Where the proposed changes involve a change in use and/or major alteration of the design concepts of the plat approved by the Planning Board, it shall be considered a new application and shall require the full payment of fees as set forth in this section for new applications for development.
5. Where revisions in the plat only involves additional information required as a condition of a previous approval, no additional fees shall be required.

T. Request for Reapproval or Extensions of Time Where No change is Required:

1. Minor Subdivision – reapproval only	\$100.00
2. Major Subdivision and site plans.....	\$300.00
3. Other applications for development (soil removal, etc.).....	\$100.00

U. Site Plan Charges Computation

In cases where only a portion of a parcel or site are to be involved in the proposed site plan, the site area charge shall be based upon an area extending twenty (20) feet outside the limits of all construction, including grading and landscaping, as well as all other areas of the site the Borough Engineer believes are reasonably affected by the development application. The twenty (20) feet around the disturbed area shall not extend beyond the property lines. The Borough may still require reasonable improvements and upgrading to portions of the site not within the disturbed or affected area.

<i>V. Zoning Permit</i>	\$25.00
<i>W. Sign Appeals</i>	\$50.00
<i>X. Review of Sales Map</i>	\$200.00
<i>Y. Street Signs</i>	Actual Cost

(Ord. 2006-05, Amended, 04/12/2006; Ord. 1.19.21.1, Added, 04/02/2004; Ord.02-05, Amended, 06/12/2002)

1.19.21.2 Escrow Fees – Schedule B

The fees required by Schedule B shall be for the purpose of reimbursing the Borough for direct fees, costs, charges and expenses of professional consultants retained by or on behalf of the Borough, its boards, commissions or agencies, employees and staff of the Borough, in reviewing, testifying, and/or assisting the Borough in the evaluation, planning and proper design of municipal services and facilities in order to meet the needs

of the proposed project. The fees required by Schedule B shall be deposited with the Borough at the time the initial development documents are submitted and shall remain in an interest bearing escrow fund. Whenever the amount of the fees paid to the Borough pursuant to Schedule B or any cash performance or maintenance guarantees posted with the Borough by the applicant/developer, shall exceed \$5,000.00, the Borough shall notify the applicant in writing of the name and address of the depository and the amount of the deposit. If the amount of interest earned on the cash deposit exceeds \$100.00 pre annum, that entire amount shall belong to the applicant/developer and shall be refunded to him by the Borough annually or at the time the deposit is repaid or applied to the purpose for which it was originally deposited, as the case may be, except that the Borough may retain for administrative expenses not more than 33-1/3% of that entire interest amount. All costs, expenses, charges and fees incurred by the Unified Planning/Zoning Board, Borough, or other board, commission or agency of the Borough for services of a planner, engineer, attorney, other professional consultant, expert, employee or staff incurred as a direct result of the developers project shall be charged to this escrow fund.

Within forty-five (45) days after the filing of an application for development, the Unified Planning/Zoning Board shall, in conjunction with appropriate representatives of the staff of the Borough, review the application for development to determine whether the escrow amount set forth in Schedule B is adequate. In conducting such review, the Board shall consider the following criteria.

- (1) The presence or absence of public water and/or sewer servicing the site.
- (2) Environmental considerations, including but not limited to geological, hydrological and ecological factors.
- (3) Traffic impact of the proposed development.
- (4) Impact of the proposed development on existing aquifer and/or water quality.

Upon completion of the review and within the forty-five (45) day period, the Board shall adopt a Resolution specifying whether the escrow amount specified above is sufficient, excessive or insufficient. In the event the Board shall determine that the amount is excessive, it shall, in the Resolution, specify the amount that shall be deemed sufficient, including a specification, if appropriate, that no escrow be posted. In the event the Board shall determine the amount specified above is insufficient, it shall so specify and shall set forth the amount required to be posted in light of the criteria specified herein.

Prior to an application being determined complete, the applicant shall post the required escrow amount as set forth in Schedule B. or, if the Board has passed a Resolution as provided for above, the amount of escrow provided for by that Resolution, with the Borough Clerk in the form of cash, certified check or money order.

If, during the pendency of an application, the amount of the escrow account has been depleted to twenty percent (20%) of the original escrow amount, the Borough Clerk shall notify the Board. The Board shall again evaluate the application, as provided for above, and notify the Borough Clerk and applicant of any additional escrow deposit required. The applicant shall immediately deposit the additional escrow amount with the Borough Clerk and notify the Board that the required deposit has been made. In the event that it is

necessary for the board to take action on an application prior to the additional escrow deposit being made, any approval shall be conditioned upon the escrow deposit being made.

Upon request of an applicant, the Borough Clerk shall furnish the applicant with a statement of all disbursements made during the development review process.

All bills, invoices or vouches submitted by professionals or experts relating to an application shall specify the services performed and the amount of time related to an application in performing such services.

Unit charges (i.e. per diem or hourly fees) of the professional or expert shall be in accordance with unit charges contracted for with the Board or with the Borough or as prescribed by the Salary Ordinance of the Borough of Englishtown.

All escrow funds not expended shall be refunded to the applicant within sixty (60) days after the Board has taken final action on an application, or after a withdrawal or dismissal of an application.

SCHEDULE B – ESCROW FEES

<u>Site Plan [Amended Ord. 94-08]</u>	<u>Escrow to be Posted</u>
Minor	\$ 500.00
Major	\$1,000.00 min
<u>Residential Development [Amended Ord. 94-08]</u>	<u>Escrow to be Posted</u>
Minor Subdivision	\$ 1,500.00
Major Subdivision:	
0-25 units or lots	\$ 3,000.00
26-100 units or lots	\$12,000.00
101-500 units or lots	\$18,000.00
500-1000 units or lots	\$25,000.00
1001 + units or lots	\$30,000.00
<u>Commercial/Industrial Development Application Not Involving Structures</u>	<u>Escrow to be Posted</u>
0-3	\$ 3,500.00
3 +	\$ 5,000.00
<u>Commercial/Industrial Development Application Involving Structures</u>	<u>Escrow to be Posted</u>
1,250 – 1,999 square feet	\$ 1,500.00
2,000 – 20,000 square feet	\$ 3,500.00
20,000 + square feet	\$ 7,000.00

Variance

Residential	\$ 200.00
Commercial	\$ 500.00

Informal Review of Concept Plan

Minor subdivision or site plan	\$ 500.00
Major subdivision or site plan	\$ 1,000.00

(Ord. 02-05, Amended, 06/12/2002; Ord. 94-08, Amended, 08/10/1994; Ord. 88-2, Replaced, 02/16/1988)

1.19.21.3 Affordable Housing Development Fees

1. Purpose

- a) In Holmdel Builder's Association V. Holmdel Township, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.
- b) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.
- c) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:97-8.

2. Basic requirements

- a) This ordinance shall not be effective until approved by COAH pursuant to *N.J.A.C. 5:96-5.1*.
- b) The Borough of Englishtown shall not spend development fees until COAH has approved a plan for spending such fees in conformance with *N.J.A.C. 5:97-8.10* and *N.J.A.C. 5:96-5.3*.

3. Definitions

The following terms, as used in this ordinance, shall have the following meanings:

Affordable housing development means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

COAH” or the Council means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

Development fee means money paid by a developer for the improvement of property as permitted in *N.J.A.C. 5:97-8.3*.

Developer means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

Equalized assessed value means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).

Green building strategies means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low-maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

4. Residential Development fees

a) Imposed fees

- i. Within the Borough of Englishtown district(s), residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and one half percent (1.5%) of the equalized assessed value for residential development provided no increased density is permitted.
- ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a “d” variance) has been permitted, developers may be required to pay a development fee of six percent (6%) of the equalized assessed value for each additional unit that may be realized. However, if the zoning on a site has changed during the two-year period preceding the filing of such a variance application, the base

density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and a half percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

- b) Eligible exactions, ineligible exactions and exemptions for residential development
 - i. Affordable housing developments, developments where the developer is providing for the construction of affordable units elsewhere in the municipality, and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.
 - ii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.
 - iii. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.
 - iv. Residential structures demolished and replaced as a result of a fire, flood or natural disaster shall be exempt from paying a development fee.

5. Non-residential Development fees

- a) Imposed fees
 - i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5%) percent of the equalized assessed value of the land and

- improvements, for all new non-residential construction on an unimproved lot or lots.
- ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5%) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.
 - iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.
- b) Eligible exactions, ineligible exactions and exemptions for non-residential development
- i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.
 - ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.
 - iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.
 - iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.
 - v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of Englishtown as a lien against the real property of the owner.

6. Collection procedures

- a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.
- b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.
- c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.
- d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.
- e) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.
- f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.
- g) Should the Borough of Englishtown fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).
- h) Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The

developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

- i) Appeal of development fees
 - 1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by the Borough of Englishtown. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.
 - 2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by the Borough of Englishtown. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing trust fund

- a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Chief Financial Officer for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.
- b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:
 1. payments in lieu of on-site construction of affordable units;
 2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development accessible;
 3. rental income from municipally operated units;
 4. repayments from affordable housing program loans;
 5. recapture funds;
 6. proceeds from the sale of affordable units; and
 7. any other funds collected in connection with the Borough of Englishtown's affordable housing program.

- c) Within seven days from the opening of the trust fund account, the Borough of Englishtown shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, Sovereign Bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:97-8.13(b).
- d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH.

8 Use of funds

- a) The expenditure of all funds shall conform to a spending plan approved by COAH. Funds deposited in the housing trust fund may be used for any activity approved by COAH to address the Borough of Englishtown's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:97-8.7 through 8.9 and specified in the approved spending plan.
- b) Funds shall not be expended to reimburse the Borough of Englishtown for past housing activities.
- c) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.
 - i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
 - ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or

moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.

- iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d) The Borough of Englishtown may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:96-18.
- e) No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with COAH's monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

9. Monitoring

- a) The Borough of Englishtown shall complete and return to COAH all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with the Borough of Englishtown's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH. All monitoring reports shall be completed on forms designed by COAH.

10. Ongoing collection of fees

- a) The ability for the Borough of Englishtown to impose, collect and expend development fees shall expire with its substantive certification unless the Borough of Englishtown has filed an adopted Housing Element and Fair Share Plan with COAH, has petitioned for substantive certification, and has received COAH's approval of its development fee ordinance. If the Borough of Englishtown fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may

be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). The Borough of Englishtown shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall the Borough of Englishtown retroactively impose a development fee on such a development. The Borough of Englishtown shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

(Ord. 2009-16, Repeal & Replace 12/14/09; Ord. 2008-10, Amended 10/14/08; Ord. 2006-20, Added 11/8/2006)

1.19.22 Release/Reduction of Performance Bond

Prior to the release or reduction of any performance guarantee, the developer shall notify all property owners located within two hundred (200) feet of his property. The Developer will further be required to publish a notice of public hearing in the official newspaper circulated within the Borough of Englishtown, Said publication should be at least twenty (20) days prior to the date of the proposed public hearing.

The Developer shall further serve a copy of this notice of hearing by certified mail, return receipt requested, or by personal service upon all owners of land within two hundred (200) feet of his property. The notice shall contain language that the public hearing is concerning the release and/or reduction of performance guarantee concerning his property. The developer shall also send by certified and regular mail notice to any homeowner associations involved. This aforementioned notification shall be served not less than twenty (20) days prior to the scheduled public hearing date. Any individual persons who wish to be heard at the public hearing shall be given the opportunity to speak prior to the Mayor and Council acting on the request to release and/or reduce performance bond. It shall be within the sole discretion of the Mayor and Council of the Borough of Englishtown as to whether the performance guarantee in question, be either reduced and/or released.

(Ord. 96-05, Added, 09/25/1996)