

**THE BOROUGH OF RIVERTON
BURLINGTON COUNTY**

ORDINANCE NO. 3-09

**AN ORDINANCE IN THE BOROUGH OF RIVERTON AMENDING CHAPTER
22, SECTION 23 AND 29, CHAPTER 109, SECTION 10 AND CHAPTER 113,
SECTION 48 AND CHAPTER 128, ATTACHMENT 2,
OF THE RIVERTON BOROUGH CODE TO PROVIDE FOR INCREASES IN
VARIANCE, SITE PLAN AND SUBDIVISION FILING AND ESCROW FEES**

WHEREAS, the Municipal Land Use Law of the State of New Jersey (N.J.S. 40:55D-1 et seq.) authorizes a municipality to establish application and escrow fees for the review of applications for development; and

WHEREAS, the Planning Board of the Borough of Riverton has recommended increases in the application and escrow fees for the review of applications for development; and

WHEREAS, the Planning Board has advised that these proposed increases in application and escrow fees will be compatible with fees charged in other Burlington County municipalities for site plan and subdivision applications; and

WHEREAS, the increases are required to sustain the costs for the review of applications for development;

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED, by the Mayor and Council of the Borough of Riverton, County of Burlington, State of New Jersey that:

- 1. §22-23 Fees** shall be amended as follows:

Fees for applications or for the rendering of any service by the Planning Board or Zoning Board of Adjustment or any member of their administrative staffs which is not otherwise provided by ordinance may be provided for and adopted as part of the rules of the Boards and copies of said rules or of the separate fee schedule shall be available to the public.

At the time of submitting an application for development, the applicant shall be required to submit the escrow as enumerated in the Site Plan Review Ordinance of the Borough of Riverton, Chapter 109, the Subdivision of Land Ordinance of the Borough of Riverton, Chapter 113 and the Zoning Ordinance of the Borough

of Riverton, Chapter 128, and to execute an escrow agreement (as referenced in 22 Attachment 2) to cover all necessary and reasonable costs incurred by the Planning Board or Zoning Board of Adjustment during the review of the application for development, on a form as approved by the Borough Attorney. The amounts specified for escrow are estimates only and shall be paid in full prior to certification that the application is complete. In the event that more than the amounts specified for escrow are required to pay the reasonable costs incurred, the applicant shall, upon written demand of the Planning Board or Zoning Board of Adjustment, pay into escrow all additional sums required. All costs for the review of the application for development shall be reimbursed by the applicant whether the application is approved or denied.

2. §22-29 Payment of taxes shall be amended as follows:

Pursuant to the provisions of N.J.S.A. 40:55D-65, every application for development submitted to the Planning Board or Zoning Board shall be accompanied by proof that no taxes or assessments for local improvements are due or delinquent on the property which is subject of such application. Applications for development will not be heard unless all taxes and assessments are current.

3. 22 Attachment 2 to be added as follows:

Land Use Procedures

22 Attachment 2

Borough of Riverton

ESCROW AGREEMENT

THIS AGREEMENT made this _____ day of _____, Two Thousand and _____, _____ is hereinafter referred to as “Applicant”, the Planning Board or Zoning Board of Adjustment of the Borough of Riverton is hereinafter referred to as “Board”, and the Borough of Riverton in the County of Burlington is hereinafter referred to as “Borough”.

WHEREAS, Applicant is proceeding under the Site Plan Review Ordinance (Chapter 109 of the Borough Code), the Subdivision Ordinance (Chapter 113 of the Borough Code) and/or the Zoning Ordinance (Chapter 128 of the Borough Code), collectively, the “Ordinances”, for approval of a _____; and

WHEREAS, the Ordinances require the applicant to establish an escrow whereby work required to be performed by professionals employed by the Board will be paid for by the Applicant as required under the provisions of the Ordinances cited above; now, therefore,

Section 1. PURPOSE.

The Applicant agrees to pay all reasonable professional fees incurred by the Board for the performance of its duties.

Section 2. ESCROW ESTABLISHED.

Applicant hereby creates an escrow to be established with the Borough Treasurer.

Section 3. ESCROW FUNDED.

Applicant, upon execution of this agreement, shall pay to the Borough, to be deposited in the escrow account established by the Borough Treasurer, such sums as are required by the Ordinances.

Section 4. INCREASE IN ESCROW FUND.

If during the existence of this escrow agreement the funds held by the escrow holder shall be insufficient to cover any voucher or bill submitted by the professional staff and reviewed and approved by the Board, Applicant shall within fourteen (14) days from the date of receipt of written notice deposit additional sums with the escrow holder to cover the amount of the deficit referred to above and such additional amounts reasonably anticipated by the Board to be needed to complete the application process.

FAILURE OF THE APPLICANT TO DEPOSIT ADDITIONAL FUNDS TO COVER ANY VOUCHER OR BILL WILL RESULT IN THE BOARD NOT CONSIDERING THE APPLICATION FOR DEVELOPMENT IF THE ESCROW ACCOUNT IS NOT CURRENT ON THE DATE OF THE PUBLIC HEARING AND MAY RESULT IN THE APPLICANT BEING SUBJECT TO ANY LEGAL ACTION THAT THE BOROUGH, THE BOARDS OR THEIR RESPECTIVE PROFESSIONAL STAFFS MAY HAVE TO ENFORCE THIS AGREEMENT.

The written notice referred to in this paragraph shall be sent to:

Unless otherwise shown, receipt shall be presumed to have occurred three (3) days after mailing. The notice required under this paragraph shall be given by the Board or its designee.

Section 5. TIME OF PAYMENT.

The professionals referred to in this agreement, upon the conclusion of their services or periodically during the performance of their services, shall submit vouchers conforming to the requirements established by the Borough for vouchers of the type and kind referred to under this paragraph. Said vouchers shall include the amounts of all fees and costs incurred as a result of the services set forth under Section 1 of this agreement.

Section 6. PAYMENTS FROM ESCROW FUNDS.

The Board or its designee shall review the vouchers submitted by the professionals to determine whether the services have been performed in the manner and to the degree required by this agreement. Upon making a determination that said services have been performed properly, the Board or its designee shall process said vouchers in

the same manner and under the same terms as are normally employed for vouchers submitted for work performed on behalf of the Board. At the conclusion of this processing, the amounts specified in said vouchers shall be paid by the escrow holder from the escrow established pursuant to this agreement.

Section 7. GOVERNING LAW AND CONSENT TO JURISDICTION.

This Agreement shall be construed and enforced in accordance with, and shall be governed by, the laws of the State of New Jersey, without regard to its choice of law rules.

The Applicant agrees that any action or proceeding to enforce, or that arises out of this Agreement, may be commenced and maintained in the Superior Courts of the State of New Jersey, or in any United States District Court for the District of New Jersey, and Applicant hereby waives any objection to the jurisdiction of said courts in any litigation arising hereunder on the basis that such court is an inconvenient forum or otherwise.

IN WITNESS WHEREOF the parties hereto have set their hands and seal the date first written above.

Applicant *

*If the applicant is a corporation, this signature must be attested to by an appropriate officer and the corporate seal must be affixed.

4. **§109-10. Fees** shall be amended and supplemented as follows:
- A. Filing Fee.
 - 1. Site Plan - \$200.00.
 - 2. Change of Use Application for Non-Residential Use - \$50.00
 - B. Minimum Starting Escrow Fee.
 - 1. Non-residential Change of Use Application reviewed by the Planning Board Chairman and Zoning Officer - no escrow required
 - 2. Site Plan, floor area less than 1,000 square feet - \$1,000.00
 - 3. Site Plan, floor area less between 1,000 and 9,999 square feet - \$3,000.00
 - 4. Site Plan, floor area 10,000 square feet and over - \$5,000.00.
 - 5. Inspection escrow shall be six percent (6%) of the bonded amount.
 - C. Variances and Conditional Use. A request for variance or conditional use accompanying site plan will require the payment of the appropriate fee, as enumerated in the Zoning Ordinance of the Borough of Riverton, Chapter 128 of the Code of the Borough of Riverton, in addition to the site plan application and fee.
 - D. Other sums. Sums not utilized in the review and inspection process shall be returned to the applicant. If additional sums are deemed necessary for professional reviews or inspection, the applicant shall be notified of the required additional amount and shall add such sum to the escrow. An application for development will not be considered by the Planning Board or Zoning Board unless the Applicant's escrow account is current on the date of the scheduled hearing. Each applicant who shall submit a plan for site approval shall agree in writing and shall pay all reasonable costs for professional review of the said site plan and for inspection of improvements required by the Planning Board or Zoning Board. Such costs must be paid in full before any occupancy of the premises is permitted or occupancy permit issued.
 - E. Site Plan Waiver. An escrow fee of one hundred dollars (\$100.00) and a filing fee of \$50 shall be submitted with each application for site plan waiver. Said fees shall be applied toward the fee required for site plan in the event that the waiver is not granted.

5. **§113-48. Schedule of fees** shall be amended and supplemented as follows:
- A. Filing Fee
 - a. Minor Subdivision - \$200.00
 - b. Major Subdivision - \$500.00
 - B. Minimum Starting Escrow Fee.
 - 1. Minor Subdivision - \$500.00
 - 2. Major Subdivision - \$4,000.00
 - 3. Inspection escrow shall be six percent (6%) of the bonded amount.
 - C. Variances. A request for variance accompanying subdivision will require the payment of the appropriate fee, as enumerated in the Zoning Ordinance of the Borough of Riverton, Chapter 128 of the Riverton Code, in addition to the subdivision plan application and fee.
 - D. Other sums. Sums not utilized in the review and inspection process shall be returned to the applicant. If additional sums are deemed necessary for professional reviews or inspection, the applicant shall be notified of the required additional amount and shall add such sum to the escrow. An application for development will not be considered by the Planning Board or Zoning Board unless the Applicant's escrow account is current on the date of the scheduled hearing. Each applicant who shall submit a plan for subdivision approval shall agree in writing and shall pay all reasonable costs for professional review of the said subdivision plan and for inspection of improvements required by the Planning Board or Zoning Board. Such costs must be paid in full before any occupancy of the premises is permitted or occupancy permit issued.
6. **Chapter 128, Attachment 2**, shall be amended as follows:
- Change \$250.00 to \$350.00 in Check-Off item 3c.
7. This Ordinance shall immediately take effect upon adoption.

ROBERT MARTIN, MAYOR

CERTIFICATION OF CLERK

I, Mary Longbottom, Municipal Clerk of the Borough of Riverton, in the County of Burlington and State of New Jersey do hereby **CERTIFY** that the following Ordinance was introduced and passed at a regular meeting of the Borough Council held April 8, 2009. This Ordinance will be considered for adoption at a regular meeting of the Borough Council to be held on May 13, 2009, after a Public Hearing.

MARY LONGBOTTOM,
MUNICIPAL CLERK

RECORDED VOTE	<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
DANIEL	_____	_____	_____	_____
BROWN	_____	_____	_____	_____
CAIRNS-WELLS	_____	_____	_____	_____
SMYTH	_____	_____	_____	_____
KINZLER	_____	_____	_____	_____
CESARETTI	_____	_____	_____	_____
MAYOR MARTIN (TIE)	_____	_____	_____	_____