

**BOROUGH OF HAWORTH**  
**ORDINANCE #003\*-24**  
(\*Revised ordinance numbering)

**AN ORDINANCE TO AMEND CHAPTER 26**  
**OF THE CODE OF THE BOROUGH OF HAWORTH**  
**TO ESTABLISH FEES AND TO ESTABLISH**  
**A REQUIREMENT FOR ESCROW**  
**DEPOSITS IN CONNECTION WITH**  
**APPLICATIONS FOR DEVELOPMENT**

**WHEREAS**, the Municipal Law Use Law permits a municipality to charge application fees and to require deposits in escrow to reimburse Borough professionals for services rendered in connection with applications for development. NOW THEREFORE BE IT ORDAINED by the Mayor and Council of the Borough of Haworth as follows:

**Section 1.**

Chapter 26 of the Code of the Brough of Haworth, Land Use Regulations, is amended to add a new Article entitled Article 26-1200, Application Fees, and the following Sections thereunder:

§ 26-1200 Application Fees For Land Development Applications.

§ 26-1200.1 Application Fees For Subdivisions.

a. Minor subdivision: \$1,000 plus \$300 per lot.

b. Major subdivision without site plan approval, variance approval, or conditional use approval:

(1) Preliminary approval: \$1,500 plus \$300 per lot.

(2) Final approval: \$1,000 plus \$300 per lot.

(3) Combined preliminary and final approval: \$2,500 plus \$300 per lot.

c. Site plan review:

(1) Application for preliminary approval only: \$3,000.

(2) Amended application for preliminary approval only: \$500.

(3) Application for final site plan approval: \$1,000.

(4) Application for amended final site plan approval: \$500.

(5) Application for combined preliminary and final site plan approval: \$4,000.

(6) Amended application for combined preliminary and final site plan approval: \$750.

(7) Application for minor site plan approval: \$500.

d. Conditional use application (meeting all conditions of conditional use Ordinance):

(1) Conditional use application without subdivision or site plan application: \$500.

(2) Conditional use application with ancillary subdivision or site plan application: \$500 together with filing fees for subdivision and/or site plan application as provided herein.

e. Conditional use application (applicant does not satisfy all conditions of conditional use Ordinance):

(1) Conditional use application without subdivision or site plan application: \$500 together with application fees for conditional use variance as provided herein.

(2) Conditional use application with ancillary subdivision or site plan application: \$750 together with filing fees for deviation from a conditional use variance as provided herein.

f. Variances pursuant to N.J.S.A. 40:55D-70d without site plan or subdivision application:

(1) Use variance: \$1,000.

(2) Expansion of a nonconforming use: \$750.

(3) Floor area ratio variance: \$750.

(4) Density variance: \$1,000.

(5) Conditional use variance: \$750.

(6) Height of a principal structure which exceeds by 10 feet or 10% the maximum height permitted in the District for a principal structure: \$750.

g. Variances pursuant to N.J.S.A. 40:55D-70c, known as bulk variances: \$300 for each variance.

h. Any other application not specified: \$300 for each application.

## Section 2.

Chapter 26 of the Code of the Borough of Haworth, Land Use Regulations, is amended to add a new Article entitled Article 26-1300, Escrow Deposits, pursuant to N.J.S.A. 40:55D-53.2 and the following Sections thereunder:  
§ 26-1301 Escrow Fees For Reimbursement of Borough Professionals In Connection With Land Development Applications.

### § 26-1301.1 Professional Fees Established By Ordinance.

a. Escrow deposits for professional fees; procedure. In addition to the application fees set forth in §26-1201, the Planning Board or Board of Adjustment shall require escrow deposits in accordance with the provisions of the fee and deposit schedule set forth in §26-1301.2 hereof. The Chief Financial Officer of the Borough shall make all the payments to professionals for services rendered to the Borough with 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.A. 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 inspections 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 Borough. The only cost that shall be added to any 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 Borough clerical or administrative functions, overhead expenses, meeting room charges or any Borough costs and expenses except as provided for specifically by statute, nor shall a Borough professional add any such charge to his or her bill. The applicant's responsibility as to these charges shall be a continuing one from the initial filing of the application through and including decision and determination and any post-determination services as may be reasonably required. Said applicant's responsibility shall apply whether or not any such decision or determination is favorable or unfavorable to the applicant.

b. Scope of reimbursed services. The Borough shall be entitled to be reimbursed 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. Said services shall include but not be limited to legal, planning and engineering services and the services of outside consultants when an application is of a nature beyond the scope of the expertise of those professionals normally utilized by the Borough.

c. 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 Borough 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 Borough 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 Borough 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 decisions by the appropriate Borough agency with respect to such application, upon certification by the Board secretary that such application has been finally decided.

d. Payments.

(1) 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 for each date the services were performed, the hours spent to one-quarter-hour increments, the hourly rate and the expenses incurred. All professionals shall submit vouchers to the Chief Financial Officer and Municipal Clerk's Office of the Borough on a monthly basis in accordance with the schedule 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 and the Borough Clerk's office of the Borough simultaneously to the applicant and the Borough agency for whom said services were performed.

(2) The Chief Financial Officer shall prepare and send to the applicant with a copy forwarded to the Borough Clerk's office 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.

e. Applicant's continuing obligation to pay fees and escrow deposits.

(1) No developmental application of any type shall be deemed complete unless and until the required application fee is paid and the initial escrow deposit required hereunder has been deposited with the Borough.

(2) If at any time during the processing, review or hearing on a developmental application, the initial deposit

has been expended or fallen below \$500 or the escrow account or deposit with respect to any such application contains insufficient funds to enable the Borough or any of its approving authorities or agencies to perform required application review or improvement inspections, the Chief Financial Officer of the Borough shall provide the applicant with a notice of the insufficient escrow or deposit balance, with a copy of said notice to the Board and Municipal Clerk's office or agency having jurisdiction over the application.

(3) In order for the review or hearing on the application or the work on the development to continue, within seven days of receipt of the notice referred to in Subsection e(2) hereof, the applicant shall post an additional deposit to its escrow account to be agreed upon by the Borough or its 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. In the event such additional deposit is not posted within the time required hereunder, the developmental application may be denied without prejudice.

(4) No subdivision plat or deed or site plan shall be signed or approved, nor shall any zoning permit, building permit, certificate of occupancy or other type of permit be issued with respect to any application unless and until an applicant has deposited with the Chief Financial Officer and notifying the Borough Clerk's office of the Borough sufficient funds to pay the fees and other charges of all professionals rendering services to the Borough and/or its Board or agency having jurisdiction of the application in connection with same.

f. Close out procedure. The following close out procedures shall apply to all deposits and escrow accounts established under the provisions of N.J.S.A. 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 have been approved in accordance with N.J.S.A. 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 and the Borough Clerk's office of the Borough and the approving authority, and to the relevant Borough 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 and to the Municipal Clerk's Office of the Borough within 30 days and shall send a copy simultaneously to the applicant. The Chief Financial Officer of the Borough 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.A. 40:55D-53.1 shall be refunded to the applicant along with the final accounting.

g. Scope of charges. All professional charges for review of an application for development, review and preparation of documents or inspections 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 which are subject to approval by any state governmental agency and not under Borough jurisdiction except to the extent consultations with a state agency is necessary due to the effect of state approvals on the subdivision or site plan.

h. Limitation of inspection fees. Inspection fees shall be charged only for inspection of 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.

i. Estimate of cost of improvements. The cost of the installation of improvements for the purposes of N.J.S.A. 40:55D-53 shall be estimated by the Borough Engineer based on documented construction costs for the public improvements prevailing in the general area of the Borough. The applicant may appeal the Borough Engineer's estimate to the County Construction Board of Appeals, established pursuant to N.J.S.A. 52:27D-127.

j. Appeals.

(1) An applicant shall notify in writing the governing body with copies to the Chief Financial Officer and the Borough Clerk's office, the approving authorities and the professional whenever the applicant disputes the charges made by a professional for services rendered to the Borough in reviewing applications for development, review and preparation of documents, inspection of improvements, or other charges made pursuant to N.J.S.A. 40:55D-53.2. The governing body, Chief Financial Officer or its designee shall within a reasonable time attempt to remediate any disputed charges pursuant to N.J.S.A. 40:55D-53.2a. If the matter is not resolved to the satisfaction of the applicant, the applicant may appeal to the County Construction Board of Appeals any charge to an escrow account or deposit by any Borough professional or consultant, or the cost of the installation of improvements estimated by the Borough Engineer pursuant to N.J.S.A. 40:55D-53.4. 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 Borough, the 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.A. 40:55D-53.2c, except that if the professional has not supplied the

applicant with an informational copy of the voucher, then the applicant shall file his appeal within 60 days from receipt of the Borough statement of activity against the deposit or escrow account required by N.J.S.A. 40:55D-53.2c. 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 present a pattern of excessive or inaccurate charges. An applicant making use of the 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 Borough 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 plans 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 Borough 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 Borough 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 the Borough, the professional or consultant shall reimburse the Borough in the amount of any such disallowed charge.

§ 26-1301.2 Escrow Deposits; Schedule of Fees.

There is hereby established the following schedule of initial deposits required to be paid by each applicant for development toward reasonably anticipated Borough expenses for professional services and costs:

- a. Minor subdivision. For each separate lot comprising the proposed subdivision, if granted:
  - (1) Engineering escrow: \$500 per lot.
  - (2) Planning escrow: \$500 per lot.
  - (3) Legal escrow: \$500 per lot.
  
- b. Major subdivision without site plan approval or conditional use approval:
  - (1) Preliminary approval.
    - (a) Engineering escrow: \$750 for each lot up to five lots and \$350 for each lot in excess of five lots.
    - (b) Planning escrow: \$750 for each lot up to five lots and \$350 for each lot in excess of five lots.
    - (c) Legal escrow: \$750 for each lot up to five lots and \$350 for each lot in excess of five lots.
      - (2) Final approval.
        - (a) Engineering escrow: \$250 for each proposed lot comprising the subdivision.
        - (b) Planning escrow: \$250 for each proposed lot comprising the subdivision.
        - (c) Legal escrow: \$500 for each proposed lot comprising the subdivision.
  
- c. Major subdivision requiring site plan approval or conditional use approval. In addition to the escrow deposit for a major subdivision as required herein, an additional deposit shall be posted in connection with the site plan and/or conditional use aspect of the application in an amount as follows:
  - (1) Engineering escrow: \$500 for each 10,000 square feet or part thereof of the lot area to be developed, together with \$500 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof.
  - (2) Planning escrow: \$500 for each 10,000 square feet or part thereof of the lot area to be developed, together with \$500 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof.
  - (3) Legal escrow: \$500 for each 10,000 square feet or part thereof of the lot area to be developed, together with \$500 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof.
  
- d. Site plan review without conditional use approval:
  - (1) Preliminary approval.
    - (a) Engineering escrow: \$1,000 for each 10,000 square feet or part thereof of the lot area to be developed,

together with \$500 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof.

(b) Planning escrow: \$1,000 for each 10,000 square feet or part thereof of the lot area to be developed, together with \$500 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof.

(c) Legal escrow: \$1,000 for each 10,000 square feet or part thereof of the lot area to be developed, together with \$500 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof.

(2) Final approval.

(a) Engineering escrow: \$250 for each 10,000 square feet or part thereof of the lot area to be developed, together with \$200 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof.

(b) Planning escrow: \$250 for each 10,000 square feet or part thereof of the lot area to be developed, together with \$200 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof.

(c) Legal escrow: \$250 for each 10,000 square feet or part thereof of the lot area to be developed, together with \$250 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof.

e. Site plan review together with conditional use approval:

(1) Preliminary approval.

(a) Engineering escrow: \$500 for each 10,000 square feet or part thereof of the lot area to be developed, together with \$600 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof; \$250 for a site plan review ancillary to an application for a conditional use approval for a mobile cellular communications tower.

(b) Planning escrow: \$500 for each 10,000 square feet or part thereof of the lot area to be developed, together with \$600 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof; \$250 for a site plan review ancillary to an application for a conditional use approval for a mobile cellular communications tower.

(c) Legal escrow: \$500 for each 10,000 square feet or part thereof of the lot area to be developed, together with \$600 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof; \$250 for a site plan review ancillary to an application for a conditional use approval for a mobile cellular communications tower.

(2) Final approval.

(a) Engineering escrow: \$250 for each 10,000 square feet or part thereof of the lot area to be developed, together with \$200 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof; \$100 for a site plan review ancillary to an application for a conditional use approval for a mobile cellular communications tower.

(b) Planning escrow: \$250 for each 10,000 square feet or part thereof of the lot area to be developed, together with \$200 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof; \$100 for a site plan review ancillary to an application for a conditional use approval for a mobile cellular communications tower.

(c) Legal escrow: \$250 for each 10,000 square feet or part thereof of the lot area to be developed, together with \$200 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof; \$100 for a site plan review ancillary to an application for a conditional use approval for a mobile cellular communications tower.

f. Variances pursuant to N.J.S.A. 40:55D-70d:

(1) Without site plan or subdivision approval.

(a) Engineering escrow: \$1,500.

(b) Planning escrow: \$2,000.

(c) Legal escrow: \$1,500.

(2) With site plan and/or subdivision approval.

(a) Engineering escrow: \$1,500 together with the escrow fees required for site plan and/or subdivision approval as required herein.

(b) Planning escrow: \$2,000 together with the escrow fees required for site plan and/or subdivision approval as required herein.

(c) Legal escrow: \$1,500 together with the escrow fees required for site plan and/or subdivision approval as required herein.

g. Variance pursuant to N.J.S.A. 40:55D-70c, otherwise known as "bulk variances".

(1) Engineering escrow: \$750 for the first variance applied for and \$250 for each additional variance.

(2) Planning escrow: \$750 for the first variance applied for and \$250 for each additional variance.

(3) Legal escrow: \$750 for the first variance applied for and \$250 for each additional variance.

- h. Planned residential development applications together with preliminary or preliminary and final site plan approval.
  - (1) Engineering escrow: \$250 for each 10,000 square feet of lot area or part thereof to be developed, together with \$100 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof together with the escrow fees required for site plan and/or subdivision approval as required herein.
  - (2) Planning escrow: \$250 for each 10,000 square feet of lot area or part thereof to be developed, together with \$100 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof together with the escrow fees required for site plan and/or subdivision approval as required herein.
  - (3) Legal escrow: \$250 for each 10,000 square feet of lot area or part thereof to be developed, together with \$100 for every 2,500 square feet of proposed principal and accessory buildings and structures or part thereof together with the escrow fees required for site plan and/or subdivision approval as required herein.
- i. Variances in connection with signs or fences:
  - (1) Residential property.
    - (a) Engineering escrow: \$250.
    - (b) Planning escrow: \$250.
    - (c) Legal escrow: \$250.
  - (2) Commercial property.
    - (a) Engineering escrow: \$500.
    - (b) Planning escrow: \$500.
    - (c) Legal escrow: \$500.
- j. Residential variances. For purposes of this Chapter, "residential variances" shall mean bulk variances (N.J.S.A. 40:55D-70c) on a residential property consisting of one lot with an existing single-family residence. The applicant shall post an escrow deposit for legal fees in the amount of \$1,000; provided, however, that the Planning Board may require additional escrow deposits for legal, planning, engineering or outside consultants should the Board determine it necessary for the fair consideration of the application.
- k. Additional escrow deposits. The Planning Board or Board of Adjustment having jurisdiction in connection with a particular application may require additional escrow deposits for legal, planning, engineering or outside consultants should the Board determine it necessary for the fair consideration of the application.

Section 3. Inconsistent Ordinances Repealed.

All ordinances or parts which are inconsistent with the provisions of this ordinance are hereby repealed, but only to the extent of such inconsistencies.

Section 4. Severability.

If any section, sentence or any other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not effect, impair or invalidate the remainder of this Ordinance but shall be confined in its effect to the section, sentence or other part of this Ordinance directly involved in the controversy which such judgment shall be rendered.

Section 5. Effective Date.

This Ordinance shall take effect after publication thereof and final passage as required by law.

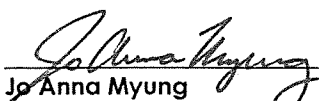
Introduced: January 23, 2024

Adopted: TBD

Approved: TBD

Councilperson	Moved	Seconded	Aye	Nay	Abstain	Absent
Poosikian		√				
Rosenberg	√					
Siciliano			√			
Davis			√			
Dilorgi			√			
Rodino						√

I hereby certify that the above resolution is a true copy of a resolution adopted by the Mayor and Council on January 23, 2024.

  
 Jo Anna Myung  
 Municipal Clerk / Borough Administrator

APPROVED:

  
 Heather Wasser  
 Mayor