

ARTICLE 19-900, Fees, Guarantees, Inspections and Off-tract Improvements

§ 19-901. Fees.

A. Fee schedule.

(1) Every application for development shall be accompanied by a certified check or checks payable to the Township of Blirstown in accordance with the following schedule of administrative charges and escrow account deposits.

(2) Where one application for development includes several approval requests, the sum of the individually required administrative charges and escrow account deposits shall be paid, with separate checks for the total administrative charges and for the total escrow account deposits.

(3) It should be noted that the Planning Board or Zoning Board of Adjustment, as the case may be, may decide in certain instances, at the request of a prospective applicant and at a meeting prior to the submission of the application for development, that the required amount of the escrow account deposits for a particular application may be more than anticipated to be needed for the review of the subject application; in such an instance, the Board may authorize a lesser escrow amount to be payable to the township, provided that the applicant nevertheless agrees to pay all reasonable costs for the review of the application.

(4) In addition to the fees and escrow deposits required for the review of submitted applications for development, the fee schedule also includes the fees for copies of requested items, special meetings, rezoning requests and other items.

	Administrative Charges	Escrow Account Deposits
1. Informal Reviews		
(a) One (1) fifteen-minute appearance without professional review. (See § 19-802D of this chapter.)	\$100	None required
(b) Any additional appearance and/or any appearance with professional review. (See § 19-802D of this chapter.)	\$100 (to be credited to any subsequent application fee)	Minor: \$1,000 Major: \$2,000
2. Subdivisions		
(a) Minor subdivision plat	\$150	\$750

	(b)	Preliminary major subdivision plat	\$250	\$750 per lot, provided that a maximum \$15,000 initially shall be deposited
	(c)	Final major subdivision plat	\$200	\$1,000
	(d)	Amended minor, preliminary major and/or final major subdivision plat	\$150	Minor: \$1,000 Major: \$2,000
	(e)	Request for reapproval or extension of time	\$150	\$500
3.		Site plans		
	(a)	Minor site plan	\$150	\$500
	(b)	Preliminary major site plan	\$250	\$1,000/acre or part thereof, provided that a maximum \$5,000 initially shall be deposited
	(c)	Final major site plan	\$200	\$500/acre or part thereof, provided that a maximum \$2,500 initially shall be deposited
	(d)	Amended minor, preliminary major and/or final major site plan	\$150	Minor: \$1,000 Major: \$2,000

	(e) Request for reapproval or extension of time	\$150	None required
4.	Rezoning requests		
	(a) One (1) fifteen-minute appearance without professional review	\$100	None required
	(b) One (1) fifteen-minute appearance with professional review	\$300	\$5,000
5.	Conditional uses (in addition to any fees required for site plan or subdivision review)	\$300	\$500/acre or part thereof
6.	Variances		
	(a) Appeals (40:55D-70a)	\$100	\$500 each
	(b) Interpretation (40:55D-70b)	\$100	\$500 each
	(c) Bulk (40:55D-70c)	\$100 per application.	\$500 each
	(d) Use and others (40:55D-70d)	\$200	\$1,000
	(e) Permit (40:55D-34 and 35)	\$200	\$500
7.	Waivers	\$100	\$125/first waiver plus \$25/each additional waiver
8.	Special meeting of Planning or Zoning Board (as requested by applicant)	\$500	\$500

9.	Certified list of property owners or certified list of public utilities (See § 19-706D(3) of this chapter.)	\$0.25/name or \$10 whichever is greater.	None required
10.	Copy of minutes, resolutions or decisions (See §§ 19-706E and 19-708C of this chapter.)	\$1.00/page for first copy of said page, plus \$0.25/copy for each additional copy of said page	None required
11.	Transcription of meeting proceedings (See § 19-706E of this chapter.)	At cost, in accordance with N.J.S.A. 2A:11-15.	None required
12.	Copy of tape of public hearing	\$25/tape	None required
13.	Subdivision approval certificate (See § 19-1003 of this chapter.)	\$50/certificate.	None required
14.	Certificate of nonconformity (N.J.S.A. 40:55D-68)	\$50/certificate.	None required
15.	Zoning permit [Amended 11-11-1998 by Ord. No. 98-13]	\$50/permit	None required

B. The administrative charges are flat fees to cover administrative expenses and are nonrefundable.

C. The escrow account deposits noted in this § 19-901 of the chapter are required to pay for the costs of professional services including engineering, planning, legal and other expenses connected with the review of submitted materials, including any traffic engineering review or other special analysis related to the township's review of the submitted materials, or any necessary studies regarding off-tract improvements.

(1) The review escrow shall be deposited by the Chief Financial Officer of the township, or his/her designee, in an account for such purposes under the sole control of the township.

(2) Said review escrows may be commingled with similar escrows from other applicants, but accurate accounts and records shall be kept so as to identify the particular escrows and charges made against the same.

D. An applicant is responsible to reimburse the Township of Blairstown for all expenses of professional personnel incurred and paid by the Township for the review process of an application for development before a municipal agency, such as, but not limited to:

- (1) Charges for reviews by professional personnel of applications, plans and accompanying documents currently pending before the municipal agency, or the review of an applicant's compliance with the conditions of any approval to an application for development by a municipal agency, or the review of any requests made by the applicant for modifications or amendments to the submitted material, provided that the professional shall not review items which are subject to approval by any state governmental agency and not under municipal jurisdiction, except to the extent consultation with the state agency is necessary due to the effect of state approvals on the proposed subdivision or site plan;
- (2) Issuance of reports by professional personnel to the municipal agency setting forth recommendations resulting from the review of any documents submitted by the applicant;
- (3) Charges for any telephone conference or meeting requested or initiated by the applicant, his attorney or any of his experts or representatives;
- (4) Review of additional documents submitted by the applicant and issuance of reports relating thereto;
- (5) Review or preparation of easements, developer's agreements, deeds, approval resolutions, or the like;
- (6) Preparation for and attendance at all meetings by professionals serving the Board, such as the Attorney, Engineer and Planner, or other experts as required;
- (7) The cost of expert advice or testimony obtained by the municipal agency for the purpose of corroborating testimony of applicant's experts; and
- (8) Actual out-of-pocket expenses incurred in the process of reviewing the applications, plans and accompanying documents.

E. Each applicant shall agree to pay all reasonable costs for professional review of the application. All such costs for review must be paid before any approved plat, plan or deed is signed and before any zoning permit, construction permit, certificate of occupancy, and/or other permit is issued.

F. Payment by the Township of Blairstown of any bill rendered by a professional to the municipality with respect to any service for which the municipality is entitled to reimbursement under this chapter shall in no way be contingent upon receipt by the municipality of reimbursement from the applicant, nor shall any payment to a professional be delayed pending the reimbursement from an applicant.

G. If an applicant desires a court reporter, the cost for taking testimony and transcribing it and providing a copy of the transcript to the township shall be at the expense of the applicant who also shall arrange for the reporter's attendance.

§ 19-902. Guarantees, start of construction pursuant to an approved plan, and inspections.

For purposes of this section, the term "public improvements" shall include streets, grading, pavement, gutters, curbs, sidewalks, streetlighting, street signs, shade trees, surveyor's monuments, fire prevention features, water mains, culverts, storm sewers,

sanitary sewers or other means of sewage disposal (excluding individual subsurface sewage disposal systems intended to serve individual lots), drainage structures, soil erosion control features and sedimentation control devices, landscaping, public improvements of open space, and, in the case of site plans only, other on-site improvements.

A. Requirements specific to major subdivisions.

(1) No final major subdivision plat (whether for an entire tract or a section thereof) shall be recorded unless:

(a) The Township Engineer has certified to the Board that all public improvements required by the preliminary subdivision approval have been satisfactorily completed; or

(b) The developer has entered into a developer's agreement with the Township of Blairstown, in a form satisfactory to the Township Attorney and authorized by the Township Committee, requiring the installation and maintenance by the developer and its successors in interest of the public improvements, imposing such limitations, and/or staging of, the development of the subdivision as are necessary to ensure orderly construction of the public improvements, and assuring the installation of the public improvements on or before an agreed date by the filing of a performance guarantee in accordance with Subsection 19-902D hereinbelow.

(2) No construction permit shall be issued for any building within the subdivision until the developer has completed the following public improvements in accordance with the approved subdivision plans and construction plans required by Subsection 19-902E(4) hereinbelow:

(a) All required utility installations and their appurtenances, including water mains, drainage and detention facilities, culverts, storm sewers, sanitary sewers or dry sewers and public improvements of open space;

(b) All required grading and the macadam base course surfacing of all streets;

(c) Construction of all required curbs; and/or

(d) Filed with the Township of Blairstown a performance guarantee in accordance with Subsection 19-902D of this section, sufficient in amount to cover the cost of all remaining required improvements, as estimated by the Township Engineer, and assuring the installation of said improvements on or before an agreed date and as hereinafter provided.

(3) No certificate of occupancy shall be issued for any dwelling within the subdivision except in compliance with the provisions for certificate of occupancy specified in § 19-1002E of this chapter.

(4) Unless provided otherwise elsewhere in this chapter, the remaining required improvements shall be at least fifty percent (50%) completed as to each category set forth in the performance guarantee within one (1) year from the date of final approval or by such time as fifty percent (50%) of the lots in the section in question have been conveyed in any manner by the developer, whichever shall first occur. At least seventy-five percent (75%) of the improvements shall be completed as to each category as set forth in the performance guarantee within eighteen (18) months from the date of final approval, or at such time as seventy-five percent (75%) of the lots in the section in question have been conveyed in any manner by the developer; whichever shall first occur. Such improvements shall be one hundred percent (100%) completed and accepted by the

Township within two (2) years from the date of final approval or at such time as all of the lots in the section in question shall first occur.

(5) It is the intention of the Township Committee that the foregoing requirements accomplish the following:

- (a) Provide to those living in each new section of a subdivision a lot that is as complete as possible with respect to tract and individual lot improvements; and
- (b) Protect the interests of the general public and residents of the development in the total completion of the development.

(6) In the case of subdivision having final approval by stages or sections, the requirements of this subsection shall be applied by stage or section.

B. Requirements specific to major site plans. No final major site plan application (whether for an entire tract or a section thereof) shall be approved by the Board unless:

(1) The Township Engineer has certified to the Board that all public improvements required by the preliminary site plan approval have been satisfactorily completed; or

(2) The developer, with the approval of the Planning Board or the Zoning Board of Adjustment, as the case may be, has entered into a developer's agreement with the Township of Blairstown in a form satisfactory to the Township Attorney and authorized by the governing body:

(a) Requiring the installation and maintenance by the developer (and the developer's successors in interest) of the public improvements; and

(b) Imposing such limitations upon, and/or staging of, the development of the site as are necessary to ensure orderly construction of the public improvements on or before an agreed upon date by the filing of a performance guarantee in accordance with Subsection 19-902D of this chapter.

C. Requirements specific to minor subdivisions and minor site plans. In the case of a minor site plan and/or minor subdivision, in the event that the developer elects to complete all improvements without posting the performance guarantee specified in Subsection 19-902D hereinbelow, no construction shall be commenced until a finalized plan is submitted and signed, incorporating all conditions of approval.

(1) The developer shall still post the inspection escrow and notify the Township Engineer prior to commencement of work.

(2) All site improvements under this subsection must be completed prior to the issuance of a certificate of occupancy, or within one hundred twenty (120) days of a temporary certificate of occupancy in the instance where a performance guarantee covering the balance of the uncompleted improvements has been posted.

D. Performance guarantee.

(1) A performance guarantee estimate shall be prepared by the Township Engineer for review and approval, setting forth all required public improvements as determined by the Board and their estimated cost, provided that no performance guarantee shall be required for the installation of utilities, when said utility improvements will be installed by the applicable utility company. Any adjustment in the amount of the performance guarantee shall be approved by resolution of the Township Committee.

(2) The cost of the installation of the required improvements shall be estimated by the Township Engineer based on documented construction costs for public improvements prevailing in the general area of the township. The developer may appeal the Township Engineer's estimate to the Township Committee. The Township Committee shall decide

the appeal within forty-five (45) days of receipt of the appeal in writing by the Township Clerk. After the developer posts a guarantee with the township based on the cost of the installation of improvements as determined by the Township Committee, he/she may institute legal action within one (1) year of the posting in order to preserve the right to a judicial determination as to the fairness and reasonableness of the amount of the guarantee.

(3) The developer shall present two (2) copies of the performance guarantee in an amount equal to one hundred twenty percent (120%) of the approved construction cost performance guarantee estimate for approval as to form and execution by the Township Attorney; additional copies of the performance guarantee shall be forwarded by the owner to the Planning Board Attorney or Zoning Board of Adjustment Attorney, as the case may be. The performance guarantee estimates, as prepared by the Township Engineer and approved by the Township Committee, shall be appended to each performance guarantee posted by the obligor.

(4) The performance guarantee shall be made payable and deposited to the Township of Blairstown and shall be in the form of cash, irrevocable letter of credit in accordance with N.J.S.A. 40:55D-53.5, a certified check, a performance bond provided by an acceptable surety company licensed to do business in the State of New Jersey and with the developer as principal, or in another form of guarantee acceptable the township.

(a) The township shall issue its receipt for such deposits and shall cause the same to be deposited in the name of the township to be retained as security for completion of all requirements and to be returned to the owner on completion of all required work or, in the event of default on part of the developer, to be used by the township to pay the cost and expense of obtaining completion of all requirements.

(b) The developer shall provide a written agreement from his/her lending institution stating that the lending institution agrees to the time period(s) required for the completion of the improvements and to the release of the guarantee by the Township Committee in accordance with Subsection 19-902G of this section.

(c) In the case of an irrevocable letter of credit, each such letter of credit shall comply with the "Uniform Customs and Practices for Documentary Credits" (1984 Revision), International Chamber of Commerce, Publication No. 400, and shall be issued or confirmed by a New Jersey banking institution. Additionally, the form of any irrevocable letter of credit shall be substantially similar to the form letter of credit furnished the developer by the Township Clerk and as approved by resolution of the Township Committee.

(d) In the case of surety bonds, the developer shall be the principal, and the bond shall be provided by a surety company operating pursuant to N.J.S.A. 17:17-1 et seq. Moreover, proof of such valid certificate shall be furnished to the Township of Blairstown at the time the surety bond is submitted to the township. Additionally, the form of the surety bond shall be identical to the form letter of bond furnished to the developer by the Township Clerk and as approved by resolution of the Township Committee.

(5) Ten percent (10%) of the amount of the approved performance guarantee shall be deposited by the developer in cash with the township.

(a) The remaining ninety percent (90%) may be in cash, an irrevocable letter of credit in accordance with N.J.S.A. 40:55D-53.5, a surety bond, or in another form of guarantee acceptable to the township.

(b) In the event of default, the ten percent (10%) cash shall be first applied to the completion of the requirements and any bidding and legal costs associated therewith, and the remaining ninety percent (90%) cash, letter of credit, surety bond, or other form of guarantee shall thereafter be resorted to, if necessary, for the completion of the requirements and any additional bidding and legal costs associated therewith.

E. Start of construction. Construction pursuant to a site plan or subdivision approval shall not commence until:

(1) The developer has paid all fees required by this chapter;

(2) The developer has received all other governmental approvals required by the Board's resolution of memorialization granting subdivision and/or site plan approval;

(3) The developer has satisfied all conditions of approval required by the Board's resolution of memorialization granting subdivision and/or site plan approval and all revisions to the submitted plat or plan required by the Board at the time of subdivision or site plan approval have been filed with and approved by the Township Engineer and any other individual or group as may have been specified by the Board in the applicable resolution of memorialization granting subdivision and/or site plan approval;

(4) The developer's construction plans have been filed with and approved by the Township Engineer;

(5) The developer has had a preconstruction meeting with the Township Engineer for the purpose of forecasting and resolving problems that may arise during the time of construction;

(6) The developer has provided the Township of Blairstown the required performance guarantee in accordance with the provisions specified in § 19-902 of this chapter; and

(7) Regarding major subdivisions only, the developer has posted the sales map as required by § 19-805 of this chapter in a prominent location in all offices from which sales of property in the subdivision development will be conducted.

F. Inspection and tests.

(1) All public improvements and utility installations for site plans, subdivisions, plot plans and other realty improvements shall be inspected during the time of their installation under the supervision of the Township Engineer and/or other applicable officials or professionals serving the Township of Blairstown in order to insure satisfactory completion. The cost of said inspection shall be the responsibility of the developer who shall deposit with the Chief Financial Officer of the township inspection fees in an amount not to exceed, except for extraordinary circumstances, the greater of five hundred dollars (\$500.00) or five percent (5%) of the cost of the improvements as determined by the Township Engineer in accordance with Subsection 19-902D(2) of this section, provided that:

(a) For those developments for which the reasonably anticipated inspection fees are less than ten thousand dollars (\$10,000.00), the fees may, at the option of the developer, be paid in two (2) installments. The initial amount deposited by the developer shall be fifty percent (50%) of the reasonably anticipated fees. When the balance of deposit drops to ten percent (10%) of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for the

inspection(s), the developer shall deposit the remaining fifty percent (50%) of the anticipated inspection fees.

(b) For those developments for which the reasonably anticipated inspection fees are ten thousand dollars (\$10,000.00) or greater, the fees may, at the option of the developer, be paid in four (4) installments. The initial amount deposited by the developer shall be twenty-five percent (25%) of the reasonably anticipated fees. When the balance of deposit drops to ten percent (10%) of the reasonably anticipated fees because the amount deposited by the developer has been reduced by the amount paid to the Township Engineer for the inspection(s), the developer shall make additional deposits of twenty-five percent (25%) of the anticipated inspection fees.

(2) The inspection escrow shall be deposited by the Chief Financial Officer of the township, or his/her designee, in an account for such purposes under the sole control of the township. Said inspection escrows may be commingled with similar escrows from other developers, but accurate accounts and records shall be kept so as to identify the particular escrows and charges made against the same. The inspection escrow funds shall be used solely for payment of inspection fees, expenses and costs of the Township Engineer on behalf of the Township during the course of construction.

(3) The Township Engineer shall not perform any inspection if sufficient funds to pay for those inspections are not on deposit. Failure of the developer to deposit the required inspection fees in accordance with Subsection 19-902F(1) of this section hereinabove will subject the developer to a stop-work order and/or suspension of construction permits.

(4) In no case shall any paving work be done without permission from the Township Engineer. At least two (2) working days notice shall be given to the Township Engineer prior to any construction so that he or a qualified representative may be present at the time the work is to be done.

(5) Streets shall not be paved with a top course until all heavy construction is completed and, if determined by the Township Engineer to be necessary, the macadam base course has first been restored. Shade trees shall not be planted until all grading and earth moving is completed. The placing of surveyor's monuments shall be among the last operations.

(6) The Township Engineer's office shall be notified at least two (2) working days prior to the commencement of the following phases of work so that he or a qualified representative may inspect the work; the Township Engineer shall, in turn, notify the landscape architect designated by the Board, if applicable, regarding any seeding and planting:

- (a) Road subgrade.
- (b) Curb and gutter forms.
- (c) Curbs and gutters.
- (d) Road paving (after each coat, if applicable).
- (e) Sidewalk forms.
- (f) Sidewalks.
- (g) Drainage pipes and other drainage construction.
- (h) Street name signs.
- (i) Monuments.
- (j) Sanitary sewers and pump stations.
- (k) Topsoil, seeding and planting.

- (l) Underground utilities.
- (m) Potable water facilities.
- (n) Detention and/or retention basins.
- (7) When designated by the Board, the landscape architect shall witness and approve landscaping in a designated area or on a typical lot within a development as deemed appropriate and necessary and/or as directed by the Township Engineer. A follow-up inspection when the entire site or phase of development is completed shall be conducted in order to confirm compliance for either a phase of development or the entire project:
 - (a) Plantings shall be checked for compliance with approved plans; i.e., correct quantity, size, species and location. Any change or modifications to the approved plans must be reviewed and approved by the landscape architect designated by the Board.
 - (b) Lawns shall be inspected for adequate coverage of healthy, vigorously growing grass which is relatively free of weeds and void of bare spots larger than one (1) square foot in area. Bare spots greater than one (1) square foot in area shall be reseeded or resodded and reinspected until acceptable coverage is achieved.
 - (c) Upon completion of the landscaping, the landscape architect shall check for compliance with the landscape plans approved by the Board. A punch list of outstanding or unsatisfactory items shall be compiled with copies given to the developer and the Township Engineer, and a final sign-off shall be given after necessary remedial work.
 - (d) Upon successful completion of all landscape work, a written recommendation shall be forwarded by the landscape architect to the Township Engineer to be included in the inspection report to the Township Committee before the release of performance guarantees.
- (8) Any improvement installed contrary to the plan or plat approval by the township shall constitute just cause by the approving authority or designated official to void or deem voidable the municipal approval. Moreover, if a certificate of occupancy or construction permit is issued by a township official pursuant to § 19-1002E of this chapter, such certificate or permit does not indicate acceptance by the township of any deviation(s) from the plan or plat as approved by the Board.
- (9) Any improvement installed without notice for inspection pursuant to Subsections 19-902E, F(4) and F(6) hereinabove shall constitute just cause for:
 - (a) Removal of the uninspected improvement;
 - (b) The payment by the developer of any costs for material testing;
 - (c) The restoration by the developer of any improvements disturbed during any material testing; and/or
 - (d) The issuance of a stop-work order by the Township Engineer pending the resolution of any dispute.
- (10) Inspection by the township of the installation of improvements and utilities shall not operate to subject the Township of Blairstown to liability for claims, suits or liability of any kind that may at any time arise because of defects or negligence during construction or at any time thereafter; it being recognized that the responsibility to maintain safe conditions at all times during construction and to provide proper utilities and improvements is upon the owner and his contractor, if any.
- (11) Upon substantial completion of all required street improvements (except for the top course) and appurtenant utility improvements, and the connection of same to the public system, the obligor may request of the Township Committee in writing, by

certified mail in care of the Township Clerk, that the Township Engineer prepare in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to Subsection 19-902D(3) of this chapter, a list of all uncompleted or unsatisfactory completed improvements.

(a) If such a request is made, the obligor shall send a copy of the request to the Township Engineer. The request shall indicate which improvements have been completed and which improvements remain uncompleted in the judgment of the obligor.

(b) The Township Engineer shall inspect all the improvements covered by the obligor's request and shall file a detailed list and report, in writing, with the Township Committee, and shall simultaneously send a copy thereof to the obligor not later than forty-five (45) days after receipt of the obligor's request.

(c) If the Township Engineer fails to send or provide the list and report, as requested by the obligor, within forty-five (45) days from the receipt of the request, the obligor may apply to the Court in a summary manner for an order compelling the Township Engineer to provide the list and report within a stated time and the cost of applying to the Court, including reasonable attorney's fees, may be awarded to the prevailing party.

(12) The list prepared by the Township Engineer pursuant to Subsection 19-902F(11) hereinabove, shall state, in detail, with respect to each improvement determined to be incomplete or unsatisfactory, the nature and extent of the incompleteness of each incomplete improvement or the nature and extent of, and remedy for, the unsatisfactory state of each completed improvement determined to be unsatisfactory. The report prepared by the Township Engineer shall identify each improvement determined to be complete and satisfactory together with a recommendation as to the amount of reduction to be made in the performance guarantee relating to the completed and satisfactory improvement, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to Subsection 19-902D(3) of this section.

G. Release. The Township Committee, by resolution, shall either approve the improvements determined to be complete and satisfactory by the Township Engineer, or reject any or all of these improvements upon the establishment in the resolution of cause for rejection, and shall approve and authorize the amount of reduction to be made in the performance guarantee relating to the improvements accepted, in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to Subsection 19-902D(3) of this section. This resolution shall be adopted not later than forty-five (45) days after receipt of the list and report prepared by the Township Engineer.

(1) Upon adoption of the resolution by the Township Committee, the obligor shall be released from all liability pursuant to its performance guarantee, with respect to those approved improvements, except for that portion adequately sufficient to secure completion or correction of the improvements not yet approved, provided that thirty percent (30%) of the amount of the performance guarantee posted may be retained to ensure completion and acceptability of all improvements and, furthermore, that the thirty percent (30%) retained may be applied against all improvements, regardless of when completed.

(2) In the event that the obligor has made a cash deposit with the township or approving authority as part of the performance guarantee, then any partial reduction

granted in the performance guarantee shall be applied to the cash deposit in the same proportion as the original cash deposit bears to the full amount of the performance guarantee.

(3) If any portion of the required improvements is rejected, the obligor shall complete or correct such improvements and, upon completion or correction, shall notify the Township Committee as specified in Subsection 19-902F(11) of this section and the same procedures shall be followed as in the first instance.

(4) Prior to the approval by the Township Committee of the final reduction and release of the performance guarantee, all easements and open space shall be conveyed to the township or such other guarantee as specified on the final plat by deed containing a metes-and-bounds legal description.

(5) If the Township Committee fails to approve or reject the improvements determined by the Township Engineer to be complete and satisfactory or reduce the performance guarantee for the complete and satisfactory improvements within forty-five (45) days from the receipt of the Township Engineer's list and report, the obligor may apply to the Court in a summary manner for an order compelling, within a stated time, approval of the complete and satisfactory improvements and approval of a reduction in the performance guarantee for the approvable complete and satisfactory improvements in accordance with the itemized cost estimate prepared by the Township Engineer and appended to the performance guarantee pursuant to Subsection 19-902D(3) of this section, and the cost of applying to the Court, including reasonable attorney's fees, may be awarded to the prevailing party.

H. Conditions and acceptance of improvements. The approval of any application for development by the Township of Blairstown shall in no way be construed as acceptance of any street or drainage system or other improvement, nor shall said approval obligate the Township in any way to exercise jurisdiction over such street or drainage system or other improvement. Moreover, no improvements shall be accepted by the Township Committee unless and until all of the following conditions have been met:

(1) The final application for development shall have been approved by the Planning Board or Zoning Board of Adjustment, as the case may be, and the developer shall have submitted an affidavit, signed by a licensed New Jersey professional land surveyor, certifying that all required monuments have been set in accordance with the Map Filing LawEN and any approved subdivision plat;

(2) The Township Engineer shall have certified in writing that the improvements are completed and that they comply with the requirements of this chapter and the terms of the final application for development approved by the Board;

(3) The owner shall have filed with the Township Committee a maintenance guarantee in an amount equal to and not more than fifteen percent (15%) of the cost of installing the improvements, the cost to be determined by the Township Engineer in accordance with Subsection 19-902D(2) of this section hereinabove.

(a) The maintenance guarantee shall run for a period of two (2) years, provided that the maintenance guarantee shall not terminate until the Township Committee has authorized its release pursuant to a recommendation by the Township Engineer.

(b) The procedures and requirements governing such maintenance guarantee shall be identical with the procedures and requirements for a performance guarantee set forth in this chapter.

(c) The requirements for a maintenance guarantee may be waived by the Township Committee only if the Township Engineer has certified that the improvements have been in continuous use for not less than two (2) years from the date the Township Engineer certified completion of such improvements and that during this period the owner has maintained the improvements in a satisfactory manner; and

(4) An as-built plan and profiles of all utilities and roads [two (2) black-and-white prints to be sent to the Township Engineer plus a Mylar copy and two (2) black-and-white prints to be sent to the Administrative Officer], with certification signed and sealed by a New Jersey licensed professional engineer as to the actual construction as approved by the Township Engineer, shall be provided.

I. Extension of time. The time allowed for the installation of the improvements for which the performance guarantee has been provided may be extended by the Township Committee by resolution, provided that the current municipal cost of installation of such improvements shall first be redetermined by the Township Engineer, and if such current municipal cost is found to be greater than the cost as originally determined, the developer shall be required, as a condition of any such extension, to increase the amount of the performance guarantee to an amount equal to one hundred twenty percent (120%) of the installation cost as redetermined. In the event that the redetermined cost shall be less than the cost as originally determined, and in further event that the developer's performance guarantee exceeds one hundred twenty percent (120%) of such redetermined costs, the developer shall be entitled to a reduction of the performance guarantee to an amount equal to one hundred twenty percent (120%) of such redetermined costs.

J. Default by developer. If the required improvements are not completed or corrected in accordance with the performance guarantee, the obligor and surety, if any, under the performance guarantee shall be liable thereon to the township for the cost of the improvements not completed or constructed, and the township, either prior to or after receipt of the proceeds thereof, may complete the improvements. Such completion or correction of improvements shall be subject to the public bidding requirements of the Local Public Contracts Law, P.L. 1971, c. 198.EN

(1) For purposes of this subsection, "default" shall mean failure to install the improvements in accordance with township standards of construction, including but not limited to failure to install the improvements prior to the expiration of the performance guarantee.

(2) The Township Engineer's certification that the developer has defaulted in compliance with the required standards of construction and installation of improvements shall be the basis for Township Committee action which rejects the improvements, withholds approval, withholds construction permits or formally declares default and authorizes collection on the performance guarantee.

K. Penalties. In addition to the penalties for violation of this chapter in accordance with § 19-1006, the Township Engineer, or another township official designated by the Township Committee, is specifically authorized to require the replacement or restoration of any lands, buildings, structures and site improvements (including clearing, whether on site or off site) or of any other work commenced or continued on any site for which an approval is required pursuant to this chapter in violation of any stop-construction order or the standards for construction as established by the township.

§ 19-903. Additional provisions for escrow deposits.

A. The Township of Blairstown, or the Planning Board or the Zoning Board of Adjustment, as the case may be, shall not bill the applicant or charge any established escrow account for any municipal clerical or administrative functions, overhead expenses, meeting room charges, or for any other municipal costs and expenses except, and subject to, the following:

(1) If the salary, staff support and overhead for a municipal professional are provided by the Township of Blairstown, the charge shall not exceed two hundred percent (200%) of the sum of the products resulting from multiplying the hourly base salary of each of the professionals (which shall be established annually by ordinance) by the number of hours spent by the respective professional upon review of the application for development or for the inspection of the developer's improvements, as the case may be;

(2) If the salary, staff support and overhead for a municipal professional are not provided by the Township of Blairstown, the charge shall be at the same rate as all other work of the same nature by the professional for the municipality when fees are not reimbursed or otherwise imposed on applicants or developers; and

(3) If the Township of Blairstown retains a different professional or consultant in the place of the professional originally responsible for development within the municipality, for the review of an application for development or for the inspection of improvements, the Township of Blairstown, or the Planning Board or the Zoning Board of Adjustment, as the case may be, shall be responsible for all time and expenses of the new professional to become familiar with the application or the project, and the municipality or municipal agency shall not bill the applicant or charge any established escrow account for any such service.

B. The Chief Financial Officer of the township, or his/her designee, shall make all of the payments to professionals for services rendered to the Township of Blairstown, to the Planning Board or to the Zoning Board of Adjustment, as the case may be, for the review of applications for development and the inspection of improvements and shall administer the review and escrow deposits as follows:

(1) Each payment charged to a deposit for the review of applications for development and for the inspection of improvements shall be pursuant to a voucher from the professional in accordance with the following:

(a) Each voucher shall identify the personnel performing the service, the date each service is performed, the hours spent to one-quarter-hour increments, the hourly rate of the professional, and the expenses incurred.

(b) Each voucher shall be submitted to the Chief Financial Officer of the Township on a monthly basis in accordance with the schedules and procedures established by the Chief Financial Officer.

(c) The professional shall send an informational copy of all vouchers or statements submitted to the Chief Financial Officer of the township simultaneously to the applicant.

(2) The Chief Financial Officer of the township shall prepare and send to the applicant a statement which shall include an accounting of the funds listing all deposits, interest earnings, disbursements and the cumulative balance of the escrow account; this information shall be provided on a quarterly basis if the monthly charges are one thousand dollars (\$1,000.00) or less, or on a monthly basis if the monthly charges exceed one thousand dollars (\$1,000.00).

(3) If an escrow account or deposit contains insufficient funds to enable the Township of Blairstown, the Planning Board or the Zoning Board of Adjustment, as the case may be, to perform the required application reviews or improvement inspections, the Chief Financial Officer of the Township shall provide the applicant with a written notice of the insufficient escrow or deposit balance.

(a) In order for work to continue on the development or the application, the applicant, within ten (10) days of the written notice, shall post a deposit to the account in an amount to be agreed upon between the Township of Blairstown, the Planning Board or the Zoning Board of Adjustment, as the case may be, and the applicant.

(b) With regard to review fees, if the applicant fails to make said deposit within the time prescribed herein, the Planning Board or Zoning Board of Adjustment, as the case may be, shall be authorized to dismiss the application without prejudice subject to the right of the applicant to seek reinstatement by notice to the Board that said deposits have been posted.

(c) With regard to inspection fees, the Township Engineer shall not perform any inspection if sufficient funds to pay for the inspections are not on deposit, provided that any required health and safety inspections shall be made and charged back against the replenishment of funds. Failure to post and maintain inspection fee deposits in accordance with these requirements will subject the developer to a stop-work order and/or suspension of construction permits.

C. Whenever an amount of money in excess of five thousand dollars (\$5,000.00) is deposited by an applicant or developer with the township for professional services employed by the township for the review of submitted applications for development pursuant to § 19-901 of this chapter, or for inspections pursuant to Subsection 19-902F of this section, or to satisfy the guarantee requirements pursuant to Subsection 19-902D of this section, the money, until repaid or applied to the purposes for which it is deposited, including the applicant's or developer's portion of the interest earned thereon, except as otherwise provided in this section, shall continue to be the property of the applicant or developer and shall be held in trust by the municipality in accordance with the following:

(1) The money deposited shall be held in escrow.

(2) The money shall be deposited by the Township of Blairstown in a banking institution or savings and loan association in New Jersey insured by an agency of the federal government, or in any other fund or depository approved for such deposits by the state.

(3) The money shall be deposited in an account bearing interest at the minimum rate currently paid by the institution or depository on time or savings deposits.

(4) The Township of Blairstown shall notify the applicant in writing of the name and address of the institution or depository in which the deposit is made and the amount of the deposit.

(5) The Township of Blairstown shall not be required to refund an amount of interest paid on a deposit which does not exceed one hundred dollars (\$100.00). However, if the amount exceeds one hundred dollars (\$100.00), that entire amount shall belong to the applicant or developer and shall be refunded to him/her by the Township annually or at the time the deposit is repaid or applied to the purposes for which it was deposited, as the case may be; except that the Township may retain for administrative expenses a sum

equivalent to not more than thirty-three and one-third percent (33 1/3%) of that entire amount which shall be in lieu of all other administrative and custodial expenses.

§ 19-904. Off-tract improvements.

A. Required improvements. Applicants shall be required, as a condition for approval of a subdivision, site plan or conditional use, to pay their pro rata share of the cost providing reasonable and necessary street improvements and/or water, sewerage and drainage facility improvements, and any necessary easements therefor located outside the property limits of the subject premises, but indicated in the Township Master Plan and necessitated or required by construction or improvements within such subdivision or development. The following criteria shall be utilized in determining the developer's proportionate pro rata monetary share for the necessary off-tract developments.

B. Improvements to be constructed at the expense of the developer. In cases where the need for an off-tract improvement is reasonably created by the proposed subdivision or development and where no other property owners receive a special benefit thereby (as opposed to a mere incidental benefit), the applicant may be required, as a condition of approval and at the applicant's sole expense, to acquire and/or improve lands outside the tract and dedicate such lands to the Township of Blairstown or Warren County or, in lieu thereof, require the subdivider or developer to deposit with the township a sum of money sufficient to allow the township to acquire and/or improve such lands on conditions it may deem appropriate under the circumstances.

C. General standards for other improvements. In cases where the need for any off-tract improvement to be implemented now or in the future is reasonably necessitated by the proposed development application, and where it is determined that properties outside the development also will be benefited by the improvement, the following criteria, together with the provisions or rules and regulations of the Township of Blairstown or any department thereof, may be utilized in determining the developer's proportionate share of such improvements:

(1) Sanitary sewers. For distribution facilities, including the installation, relocation or replacement of collector, trunk and interceptor sewers and the installation, relocation or replacement of other appurtenances associated therewith, the applicant's proportionate share shall be computed as follows:

(a) The capacity and the design of the sanitary sewer system shall be based on the Rules and Regulations for the Preparation and Submission of Plans for Sewerage Systems, New Jersey State Department of Environmental Protection, and all Blairstown Township sewer design standards, including infiltration standards.

(b) Developer's pro rata share:

[1] The capacity of the existing system to serve the entire improved drainage area shall be computed. If the system is able to carry the total development drainage basin, no improvement or enlargement cost will be assigned to the developer although some charges including, but not limited to, capacity charges may be imposed. If the existing system does not have adequate capacity for the total development drainage basin, the pro-rated enlargement or improvement share shall be computed as follows:

$$\begin{array}{l} \text{Developer's Cost} \\ \text{Total Enlargement} \end{array} = \begin{array}{l} \text{Development gpd} \\ \text{Total Tributary gpd} \end{array}$$

[2] If it is necessary to construct a new system in order to develop the subdivision or development, the pro-rated enlargement share to the developer shall be computed as follows:

$$\frac{\text{Developer's Cost}}{\text{Total Project Cost}} = \frac{\text{Development Tributary gpd}}{\text{Total Tributary gpd to New System}}$$

[3] The plans for the improved system or the extended system shall be prepared by the developer's engineer. All work shall be calculated by the developer and approved by the Township Engineer.

(2) Roadways. For street widening, alignment, channelization of intersections, construction of barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvement uncovered elsewhere, the construction or reconstruction of new or existing streets and other associated streets or traffic improvements, the applicant's proportionate cost shall be determined as follows:

(a) The applicant's engineer shall provide the Township Engineer with the existing and anticipated peak-hour volumes which impact the off-tract areas in question, which volumes shall analyze pedestrian, bicycle and motor vehicle traffic.

(b) The applicant shall furnish a plan for the proposed off-tract improvements, which shall include the estimated peak-hour traffic generated by the proposed development. The ratio of the peak-hour traffic generated by the proposed development to the future peak-hour traffic shall form the basis of the proportionate share. The pro-rated share shall be computed as follows:

$$\frac{\text{Developer's Cost}}{\text{Total Cost of Roadway Improvement and/or Extension}} = \frac{\text{Additional Peak-Hour Traffic Generated by the Development}}{\text{Future Total Peak-Hour Traffic}}$$

(3) Drainage improvements. For the stormwater and drainage improvements, including the installation, relocation or replacement of storm drains, culverts, catch basins, manholes, riprap or improved drainage ditches and appurtenances thereto and the relocation or replacement of other storm drainage facilities or appurtenances associated therewith, the applicant's proportionate share shall be determined as follows:

(a) The capacity and design of the drainage system to accommodate stormwater runoff shall be based on a method described in Urban Hydrology for Small Watersheds, Technical Release 55, Soil Conservation Service USDA, January 1975, as amended, and shall be computed by the developer's engineer and approved by the Township Engineer.

(b) The capacity of the enlarged, extended or improved system required for the subdivision or development and areas outside of the subdivision or development shall be computed by the developer's engineer and be subject to the approval of the Township Engineer. The plans for the improved system shall be prepared by the developer's engineer and the estimated cost of the enlarged system shall be calculated by the Township Engineer.

(c) The pro-rated share for the proposed improvement shall be computed as follows:

$$\frac{\text{Developer's Cost}}{\text{Total Enlargement or Improvement Cost of}} = \frac{\text{Development cfs}}{\text{Total Tributary cfs}}$$

Drainage Facilities

(4) Water.

(a) Where no public water is accessible as defined in § 19-519C(1) of this chapter, the applicant (in addition to complying with § 19-519B shall deposit funds in escrow with the Township of Blairstown in an amount equal to the cost of connecting the subdivision to an existing public water supply system calculated on the basis of two hundred feet (200') per unit.

(b) The escrow amount shall be calculated by determining the costs of providing such water main extension as charged by the public water utility for such service, including, but not limited to, materials, installation, taxes, appurtenances, surcharges, if any, etc.

(c) When, pursuant to § 19-501D(1) of this chapter, an applicant does not install an underground water storage tank system and ancillary fire protection wells, an applicant shall be required to pay a pro rata share of the cost of the installation of the underground water storage tank system.

[1] Such pro rata share shall be determined at a rate set by the applicable water company for the cost of the installation of two hundred feet (200') of water main per lot.

[2] An applicant shall calculate the cost of the installation of the system and submit a detailed estimate to the Township Engineer for review and approval.

[3] Where the cost of such system exceeds the pro rata share, the residual cost shall be provided by the Township of Blairstown from the deposited escrow funds, according to the zones delineated within Schedule A attached to § 19-500 of this chapter.

[a] An escrow deposit shall be required for each lot upon which a new principal structure will be located.

[b] The escrow deposit for each lot shall be made no later than the time application for a building permit for the principal structure to be located on the lot is made, and no building permit shall be issued until the escrow deposit is made.

[4] A notation describing the requirements of this subsection shall be included on the final subdivision map to be filed with the Warren County Clerk.

D. Escrow accounts. Where the proposed off-tract improvement is to be undertaken at a future date, funds required for the improvement shall be deposited to the credit of the Township of Blairstown in a separate account until such time as the improvement is constructed. In lieu of a cash escrow account, developer's may present irrevocable letters of credit for the term required in a form acceptable to the Township Attorney.

(1) If the off-tract improvement is not begun within ten (10) years of the deposit, all monies and interest shall be returned to the applicant or the letter of credit, as the case may be, surrendered.

(2) An off-tract improvement shall be considered begun if the Township of Blairstown has taken legal steps to provide for the design and financing of such improvements.

E. Referral to Township Committee.

(1) Where applications for development suggest the need for off-tract improvements, whether to be installed in conjunction with the development in question or otherwise, the Planning Board or the Zoning Board of Adjustment, as the case may be, shall forthwith forward to the Township Committee a list and description of all such improvements together with a request that the Township Committee determine and advise the Board of the procedure to be followed in construction or installation thereof, including timing. The

Board shall defer final action upon the subdivision or site plan until receipt of the Township Committee determination or the expiration of ninety (90) days after the forwarding of such list and description to the Township Committee without determination having been made, whichever comes sooner.

(2) The Township Committee, within ninety (90) days after receipt of said list and description, shall determine and advise the Planning Board or Zoning Board of Adjustment, as the case may be, concerning the procedure to be followed and advise the Board with regard to suggested conditions of approval, if any, to adequately protect the municipality.

(3) In the event that the Planning Board or Zoning Board of Adjustment, as the case may be, is required by statute to act upon the application prior to receipt of the Township Committee's determination as to construction of off-tract improvements, it shall request the applicant to consent to an extension of time within which to act, of sufficient duration to enable the Township Committee to make the aforesaid determination. In the event that the applicant is unwilling to consent to the requested extension of time, the Planning Board or Zoning Board of Adjustment, as the case may be, shall, in its discretion, either itself determine the procedure to be followed in constructing the aforesaid improvements, or shall condition its approval upon the subsequent determination of the Township Committee.

F. Implementation of off-tract improvements.

(1) In all cases, developers shall be required to enter into an agreement or agreements with Blairstown Township in regard to off-tract improvements, in accordance with this chapter and any other ordinances, policies, rules and regulations of the Township of Blairstown, Warren County and the State of New Jersey and any departments, authorities or agencies thereof.

(2) Where properties outside the subject tract will be benefited by the improvements, the Township Committee may require the applicant to escrow sufficient funds, in accordance with Subsection 19-904D, Escrow accounts, hereinabove, to secure the developer's pro rata share of the eventual cost of providing future structural improvements based upon the standards expressed herein.

(3) Where properties outside the subject tract will benefit by the improvements, the Township Committee may determine that the improvement or improvements are to be installed by the municipality as a general improvement, the cost of which is to be borne as a general expense. If the Township Committee shall determine that the improvement or improvements shall be constructed or installed as a general improvement, the Township Committee may direct the Planning Board to estimate, with the aid of the Township Engineer or such other persons who have pertinent information or expertise, the amount, if any, by which the total cost thereof will exceed the total amount by which all properties, including the subject tract, will be specifically benefited thereby, and the subdivider or developer shall be liable to the municipality for such expense.

(4) If the Township Committee shall determine that the improvement or improvements shall be constructed or installed as a local improvement, all or a part of the cost of which is to be assessed against properties benefited thereby in proportion to the benefits conferred by the improvements in accordance with Chapter 56 of Title 40 of the Statutes of the State of New Jersey, the developer may be required to sign an agreement acknowledging and agreeing to this procedure and, in addition, the Township Committee

may require that the developer shall be liable to the municipality, in addition to the amount of any special assessments against the subject property for benefits conferred by the improvement or improvements, the difference between the total cost actually incurred and the total amount by which all properties, including the subject tract, are specially benefited by the improvement as the same may be determined by the Board of Improvement Assessors.

(5) If the Township Committee shall determine that the improvements are to be constructed or installed by the applicant, such agreement may contain provisions, consistent with the standards in this chapter and any other rules, regulations or policies of the Township of Blairstown, County of Warren and the State of New Jersey and any departments, authorities or agencies thereof with jurisdiction therein, whereby the applicant shall be reimbursed by the municipality or otherwise, as a result of any participation fees, connection charges, charges paid in regard to developer's agreements with other applicants and the like, all in accordance with an agreement between the Township Committee and the applicant.

(6) In determining the procedures to be followed in the event of the submission of a list and request from the Planning Board, the Township Committee shall be guided by the following standards and considerations:

(a) The local trends in regard to the probability of development within the drainage or circulation area in question and the intensity of such development;

(b) The risk and exposure that neighboring areas are subject to in the event that the improvements to be required are delayed;

(c) The extent to which temporary measures may sufficiently alleviate the condition or conditions requiring the off-tract improvement and the likelihood that larger, regional or subregional facilities will be required in the future to serve the development tract and the general area of the municipality in which the same is located; and

(d) The extent to which the health, safety and welfare of the residents, both current and future, depend upon the immediate implementation of the off-tract improvement.