

ORDINANCE #25-18

ORDINANCE OF THE BOROUGH OF KEYPORT, COUNTY OF MONMOUTH, NEW JERSEY, AMENDING CHAPTER 25:1-20 OF THE BOROUGH CODE TO PROVIDE REQUIREMENT FOR DEVELOPER'S AGREEMENTS PRIOR TO CONSTRUCTION OF CERTAIN DEVELOPMENT PROJECTS

WHEREAS, the Borough of Keyport (the "**Borough**") is a public body corporate and politic of the State of New Jersey; and

WHEREAS, the Borough Code of General Ordinances (the "**Code**") does not currently set forth requirements for developer's agreements for certain types of development within the Borough, pursuant to the Municipal Land Use Law, N.J.S.A. 40:55D-53; and

WHEREAS, the Mayor and Borough Council desire to amend Chapter 25:1-20 of the Code, currently entitled "Permits and Certificates of Occupancy," to incorporate requirements for developer's agreements to be executed prior to construction of certain projects for development in the Borough; and

WHEREAS, the Mayor and Borough Council have determined to amend Subchapter 25:1-20 of the Code to read as follows (additions are underlined and deletions are in [brackets]):

... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

25:1-20 PERMITS AND CERTIFICATES OF OCCUPANCY; DEVELOPER'S AGREEMENTS.

a. No person/applicant shall erect, construct or structurally alter any building unless a zoning office permit has been issued and obtained from the Zoning Officer (the administrative officer, pursuant to the Municipal Land Use Law) who shall be appointed by and serve at the pleasure of the Mayor and Council.

Any person/applicant who seeks to erect, construct or structurally alter any building shall deposit an escrow with the Zoning Office in an amount not to exceed five hundred (\$500.00) dollars. Such amount shall be used to pay any professionals for their review of such person's/applicant's application to erect, construct or structurally alter any building. Such escrow shall continue to be the property of the person/applicant and not the Borough. Depending on the complexity of the application, if any funds remain after the completion of review, such funds shall be returned to the person/applicant. Such escrow shall be in addition to any required Borough subcode fees. This paragraph shall only be applicable to applications to the Zoning Office that are not subject to review by the Borough Unified Planning Board.

b. Prior to the commencement of any on-site construction, there shall be executed and delivered to the Mayor and Borough Council a developer's agreement between the applicant and the Borough of Keyport incorporating all of the terms and conditions of final approval, except that such developer's agreement shall not be required for the following:

1. Minor subdivisions and minor site plans; or
2. Major subdivisions and/or major site plans for which the value of site improvements as determined by an engineer's estimate (as approved by the Borough Engineer) does not exceed one hundred thousand (\$100,000.00) dollars; or
3. Major subdivisions in which no public improvements are required.

c. The Borough Unified Planning Board shall have the right to specifically require a developer's agreement notwithstanding the exceptions set forth in paragraphs b.1., b.2., or b.3. herein above.

d. The developer's agreement shall be drawn by the Borough Attorney and shall be executed by the applicant. Legal fees incurred by the Borough associated with the preparation and negotiation of the developer's agreement shall be paid by the applicant in accordance with the fees established in paragraph a. herein above.

e. The developer's agreement shall be recorded against the affected properties by the Borough Attorney. Legal fees and recording fees incurred by the Borough associated with the recording of the developer's agreement shall be paid by the applicant in accordance with the fees established in paragraph a.

... [NOTE to Codifier. Existing text not appearing herein has been deleted solely for brevity. NO CHANGE] ...

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Keyport as follows:

Section 1. The aforementioned recitals are incorporated herein as though fully set forth at length.

Section 2. Chapter XXV of the Borough Code shall be amended as follows:

25:1-20 PERMITS AND CERTIFICATES OF OCCUPANCY; DEVELOPER'S AGREEMENTS.

a. No person/applicant shall erect, construct or structurally alter any building unless a zoning office permit has been issued and obtained from the Zoning Officer (the administrative officer, pursuant to the Municipal Land Use Law) who shall be appointed by and serve at the pleasure of the Mayor and Council.

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c. The Borough Unified Planning Board shall have the right to specifically require a developer's agreement notwithstanding the exceptions set forth in paragraphs b.1., b.2., or b.3. herein above.

d. The developer's agreement shall be drawn by the Borough Attorney and shall be executed by the applicant. Legal fees incurred by the Borough associated with the

preparation and negotiation of the developer's agreement shall be paid by the applicant in accordance with the fees established in paragraph a. herein above.

e. The developer's agreement shall be recorded against the affected properties by the Borough Attorney. Legal fees and recording fees incurred by the Borough associated with the recording of the developer's agreement shall be paid by the applicant in accordance with the fees established in paragraph a.

Section 3. All ordinances or parts thereof inconsistent with the provisions of this ordinance are hereby repealed.

Section 4. Each section, subsection, sentence, clause and phrase of this ordinance is declared to be an independent section, subsection, sentence, clause and phrase and the finding or holding of any such portion of this ordinance to be unconstitutional, void, or ineffective for any cause, or reason, shall not affect any other portion of this ordinance.

Section 5. The Borough Clerk is hereby directed, upon adoption of the ordinance after public hearing thereon, to publish notice of the passage thereof.

Section 6. This ordinance shall be in full force and effect from and after its adoption and publication as required by law.

Introduced: October 16, 2018
Public Hearing: November 20, 2018
Adopted: November 20, 2018

Valerie T. Heilweil, RMC, CMR
Borough Clerk
Borough of Keyport

Harry M. Aumack, II, Mayor
Borough of Keyport