

ORDINANCE NO. 2021-15

ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH, STATE OF NEW JERSEY SUPPLEMENTING SECTION 490-10: "FEES AND ESCROWS" OF ARTICLE III: "ADMINISTRATION AND ENFORCEMENT" OF CHAPTER 490: "PLANNING AND DEVELOPMENT REGULATIONS" OF THE BOROUGH'S REVISED GENERAL ORDINANCES TO ADOPT AND IMPLEMENT NEW DEVELOPMENT IMPACT FEES UPON CERTAIN DEVELOPMENT

BE IT ORDAINED by the Mayor and Council of the Borough of Red Bank, County of Monmouth, State of New Jersey, that the Borough's Revised General Ordinances are amended to include new Subsection 490-10(I): entitled "Development Impact Fees" under Section 490-10: "Fees and Escrows" of Article III: "Administration and Enforcement" of Chapter 490: "Planning and Development Regulations" as follows (~~stricken~~ text deleted; underlined text added):

§ 490-10 Fees and Escrows.

\* \* \*

I. Development Impact Fees.

- (1) The purpose of this article is to establish regulations pursuant to which a developer, as a condition for approval of a subdivision and/or site plan, shall pay a pro rata share of the cost of providing reasonable and necessary street improvements and water, sewerage and drainage facilities, and easements therefor, and provide for open space and park improvements, located off-tract but necessitated or required by construction or improvements within the subdivision or development.
- (2) To the fullest extent permitted by New Jersey law, presently or as may be amended and supplemented from time to time, and whenever the Borough can fairly and reasonably establish, based upon appropriate traffic and utility service analyses, plans or studies and open space or park improvement plans, the proportionate or pro rata amount of the cost of the aforementioned facilities that shall be borne by each developer or owner within a related and common area as provided for herein, the developer or owner shall pay said cost as a condition of approval up to the following amounts:
  - (a) Each square foot of new construction of warehouse space shall be assessed an impact fee of \$3.25.
  - (b) Each square foot of new construction of retail, commercial and/or other industrial space shall be assessed an impact fee of \$4.25.
  - (c) Each square foot of new construction of residential space shall be assessed an impact fee of \$3.00.
  - (d) Construction of new tanks above or below grade of any gallon size shall be assessed an impact fee of \$0.10/gallon. Single- and multifamily homes shall be exempt.
- (3) The foregoing amounts shall apply to each square foot of lot coverage only and shall not be required for additions to existing owner-occupied residential dwellings unless said addition increases the total square footage of lot coverage by the dwelling by more than 50%.
- (4) Where a developer or owner pays under protest the amount determined to be his/her/its pro rata share as provided for herein, he/she/it shall institute legal action within one year of such payment in order to preserve the right to a judicial determination as to the fairness and reasonableness of such amount.
- (5) The provisions of this article notwithstanding, nothing herein shall prevent a developer or owner from voluntarily agreeing to pay, and the Borough agreeing to

accept, an amount, either by way of direct contribution or in-kind services, that the developer or owner agrees reflects the pro rata or proportionate share of the cost of providing reasonable and necessary off-tract improvements or facilities required by the construction or improvements to be approved pursuant to a respective development application. In such a case, the Borough and developer or owner may enter into a developer's agreement that provides for said direct payment or in-kind services in lieu of any contribution provided for pursuant to the provisions of this article. In addition, the Borough may waive the requirements of this article for any duly authorized redevelopment project.

**BE IT FURTHER ORDAINED** by the Governing Body of the Borough of Red Bank that any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance. All other provisions of the Revised General Ordinances are ratified and remain in full force and effect.

**BE IT FURTHER ORDAINED** by the Governing Body of the Borough of Red Bank that if any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

**BE IT FURTHER ORDAINED** by the Governing Body of the Borough of Red Bank that, after adoption of this Ordinance, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the County of Monmouth for its review and approval in accordance with N.J.S.A. 40:55D-97.

**BE IT FURTHER ORDAINED** by the Governing Body of the Borough of Red Bank that this Ordinance shall take effect upon its (1) adoption; (2) publication in accordance with the laws of the State of New Jersey; and (3) approval by the Monmouth County Planning Board pursuant to N.J.S.A. 40:55D-97.

	Motion	Yes	No	Abstain	Absent
Councilman Yassin					
Councilwoman Triggiano					
Councilman Ballard					
Councilman Yngstrom					
Councilman Zipprich					
Councilwoman Horgan					

Introduction: July 21, 2021

Public Hearing/Adoption: August 18, 2021