

## **BOROUGH OF EATONTOWN – NOTICE OF ORDINANCE ADOPTION**

NOTICE is hereby given that **Ordinance 08-2024** - Ordinance of the Borough of Eatontown Entitled **“ORDINANCE OF THE BOROUGH AMENDING CHAPTER 89 LAND USE, ARTICLE XII APPLICATON FEES, TAX MAP REVISION FEES FOR SUBDIVISIONS AND ESCROW FEES CREATING SECTION 89-105.2 ENTITLED DEVELOPMENT IMPACT FEES”** was passed after a public hearing at the regular meeting of **July 10, 2024** by the Governing Body of the Borough of Eatontown, at 47 Broad Street, Eatontown, NJ 07724. Borough of Eatontown - Julie Martin, RMC, Borough Clerk

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### **BOROUGH OF EATONTOWN**

#### **ORDINANCE NO. 08-2024**

#### **ORDINANCE OF THE BOROUGH AMENDING CHAPTER 89 LAND USE, ARTICLE XII APPLICATON FEES, TAX MAP REVISION FEES FOR SUBDIVISIONS AND ESCROW FEES CREATING SECTION 89-105.2 ENTITLED DEVELOPMENT IMPACT FEES**

**WHEREAS**, the Borough is expecting substantial development and redevelopment within its borders and it is concerned about the impact of that development upon the Borough's streets, water, sewerage, drainage facilities, open space and parks within the boundaries of the Borough of Eatontown; and **WHEREAS**, the Borough Council believes it is in the best interest of the Borough to establish development impact fees to ensure that the developer and property owner pay their pro rata share of the cost of improving the Borough's public facilities impacted by the development.

**NOW, THEREFORE, BE IT RESOLVED** by the Borough Council of the Borough of Eatontown, County of Monmouth, State of New Jersey that the Borough Council hereby amends Chapter 89 Land Use, Article XII “Application Fees, tax Map Revision Fees for Subdivisions and Escrow Fees” creating a new section 89-105.2 entitled “Development Impact Fees” as follows:

#### **SECTION I.**

##### **§89-105.2.1 Purpose**

The purpose of this article is to establish regulations pursuant to which a developer and/or property owner, 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.

##### **§89-105.2.2 Impact Fees**

A. 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 located off-tract but necessitated or required by construction or improvements within the subdivision or development that shall be borne by each developer or owner within a related common area as provided for herein. The developer or owner shall pay said cost as a condition of approval up to the following amounts:

- (1) Each square foot of new construction of warehouse space shall be assessed an impact fee of \$2.75.

- (2) Each square foot of new construction of retail, commercial and/or other industrial space shall be assessed an impact fee of \$3.75.
- (3) Each square foot of new construction of residential space shall be assessed an impact fee of \$2.50.
- (4) 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.

B. 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 and approvals for up to two residential dwellings.

C. The provisions of this article notwithstanding, nothing herein shall prevent a developer or owner from voluntarily agreeing to pay its off-site development impact fee, by way of in-kind services, that the Borough and developer or owner agrees reflects the pro rata or proportionate share of the cost of proving reasonable and necessary off-tract improvements or facilities required by the construction or improvements to be approved pursuant to a development application. In such a case, the Borough and developer or owner may enter into a developer's agreement that provides for the in-kind services in lieu of any pro rata contribution provided for pursuant to these aforesaid requirements.

D. The Borough may waive the provisions of this Section for any duly authorized redevelopment project.

E. 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.

**IT IS FURTHER ORDAINED**, that if any section, paragraph, subsection, clause, or provision of this Ordinance shall be adjudged by the courts to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

**IT IS FURTHER ORDAINED** that any ordinances or parts thereof in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

**IT IS FURTHER ORDAINED** that this Ordinance shall take effect upon passage and publication in accordance with applicable law.