

CITY OF ENGLEWOOD

ORDINANCE #25-36

AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 250, TITLED “LAND USE” REGULATING OFF TRACT IMPROVEMENTS

WHEREAS, property development places increased demand on services and municipal infrastructure such as streets, stormwater systems, sewer, and water utilities;

WHEREAS, the Municipal Land Use Law authorizes municipalities to assess the pro rata fair share cost of required off-tract improvements to developers in order to offset the cost of such improvements on the City; and

WHEREAS, the City of Englewood Governing Body has determined that developers, and not the city, should pay for infrastructure upgrades related to their development.

THEREFORE, BE IT ORDAINED by the Governing Body of the City of Englewood, Bergen County, New Jersey that it does hereby amend, and supplement Chapter 250 of the City Code as follows:

SECTION 1. Chapter 250 is hereby amended to add new Article XXII entitled “Off Tract Improvements” as follows:

§250-159 Applicability. The following provisions are applicable to both the Planning Board and Board of Adjustment.

§250-160 Off Tract Improvements.

A. Construction or contribution required. Pursuant to the powers established in N.J.S.A. 40:55D-39 and N.J.S.A. 40:55D-42, construction of or contributions for off-tract water, sewer, drainage and street improvements may be required in accordance with the following criteria:

(1) Improvements to be constructed at the sole expense of the applicant. In cases where reasonable and necessary need for an off-tract improvement or improvements is necessitated or required by the proposed development application, and where no other property owners receive a special benefit thereby, the approving Board may require the applicant, as a condition of subdivision or site plan approval, at the applicant's sole expense, to provide for and construct such improvements as if such were on-tract improvements in the manner provided hereafter and as otherwise provided by law.

(2) Contributions by developer toward required off-tract improvements:

(a) In cases where the need for any off-tract improvement is necessitated by the proposed development application, and where the approving Board determines that properties outside the development will also be benefited by the improvements, the

approving Board shall utilize the criteria set forth in § 250-160.C below in determining the developer's proportionate share of such improvements. In addition, the Board shall be guided by the rules and regulations specified in this chapter and the Master Plan. The Board may also be guided by counsel from the Board Attorney, Engineer, Planning Consultant and other qualified experts and municipal officials relative to the subject matter.

- (b) In the event that the Board determines that one (1) or more improvements constitute an off-tract improvement the Board shall notify the City Council of the same specifying the City's recommendation relative to the estimated cost of same, the applicant's prorated share of the cost, and possible methods or means to implement same, including but not limited to performance and maintenance guarantees, cash contributions, development agreements and other forms of surety.
- (c) The Board shall not grant final site plan or subdivision approval until all aspects of such conditions have been mutually agreed upon by both the applicant and the City Council and a written resolution to that effect by the City Council has been transmitted to the Board.

B. Methods of implementation.

- (1) Performance and maintenance guarantees. Where a performance or maintenance guarantee or other surety is required in connection with an off-tract improvement the applicant shall be required to follow the same procedures and requirements as specified in this chapter for other improvements.
- (2) Development agreement. Where a development agreement is required governing off-tract improvements or other conditions as may be required by this chapter or by the Board, said agreement shall be approved as to form, sufficiency and execution by the Board Attorney and City Attorney. Said agreement shall specify the amount of cash contributions, if any, the method of payment, the relative timing of such payment, and the obligation or obligations to be undertaken by the City of Englewood.
- (3) Cash contributions, when not required. Cash contributions for off-tract improvements shall not be required under the following conditions:
 - (a) Where another county or state agency has jurisdiction over the subject improvement and requires cash contribution, guarantee or other surety of the applicant in lieu of such conditions imposed by the City of Englewood;
 - (b) Where a benefit assessment or other similar tax levy is imposed upon the applicant for the off-site improvement provided; or

- (c) Where the applicant, where legally permissible, can undertake the improvements in lieu of the municipality, subject to standards and other conditions as may be imposed by the City of Englewood.
- (4) Cash contributions, method of payment. Where a cash contribution is required by this chapter said contribution shall be deposited with the City Chief Financial Officer with a copy of the applicant's transmittal letter forwarded to the City Council, the City Engineer and the Board. Any and all monies received by the Chief Financial Officer shall be deposited in an escrow account for the purpose of undertaking the improvements specified. Where such improvements are not undertaken, or initiated for a period of ten (10) years from the posting of the funds, the funds may be retained by the City and may be used for general municipal purposes, but in such event, neither the applicant nor any of his heirs, executors, administrators, or grantors shall be liable to the City for any assessment for the purpose of installing any of the improvements for which said cash contribution was made.

C. Pro-rata formula for determining applicant's share of off-tract improvements. Where an off-tract improvement is required, the following criteria shall be utilized in determining the proportionate share of such improvement to the applicant:

- (1) Street widening, alignment, corrections, channelization of intersections, construction of barriers, new or improved traffic signalization, signs, curbs, sidewalks, trees, utility improvements not covered elsewhere and the construction of new streets and other similar street or traffic improvements: The applicant's proportionate share shall be in the ratio of the estimated peak hour traffic capacity of the present facility, and the estimated peak hour traffic generated by the proposal development. The ratio thus calculated shall be increased by ten percent (10%) for contingencies.
- (2) Water distribution facilities including the installation of new water mains, the extension of existing water mains, the relocation of such facilities and the installation of other appurtenances associated therewith: The applicant's proportionate cost shall be in the ratio of the estimated daily use of water from the property or properties in gallons to the sum of the deficiency in gallons per day for the existing system or subsystem and the estimated daily use of water for the proposed development. The ratio thus calculated shall be increased by ten percent (10%) for contingencies.
- (3) Sanitary sewage distribution facilities, including the installation, relocation or replacement of collector and interceptor sewers and the installation, relocation or replacement of other appurtenances associated therewith: The applicant's proportionate cost shall be in the ratio of the estimated daily flow in gallons to the sum of the present deficient capacity for the existing system or subsystem and the estimated daily flow from the proposed project or development. In the case where the peak flow for the proposed development may occur during the peak flow period for the existing system, the ratio shall be the estimated peak flow rate from the proposed development in gallons per minutes to the sum of the present peak flow deficiency in the existing system or subsystem and the estimated peak flow rate from the proposed development. The

greater of the two (2) ratios thus calculated shall be increased by ten percent (10%) for the contingencies and shall be the ratio used to determine the cost to the applicant.

- (4) Stormwater and drainage improvements, including installation, relocation or replacement of transmission lines, culverts, catch basins and the installation, relocation or replacement of other appurtenances associated therewith: The applicant's proportionate cost shall be in the ratio of the estimated peak surfaces runoff as proposed to be delivered into the existing system measured in cubic feet per second deficient for the existing system and the estimated peak flow as proposed to be delivered. The ratio thus calculated shall be increased by ten percent (10%) for contingencies. The applicant's engineer shall compute the drainage basin area and the area of the development and the percent of the total drainage basin area occupied by the development. Where no drainage system exists, which will receive the flow of the surface water from the applicant's development, the applicant shall furnish all drainage rights-of-way deemed to be necessary by the Board.
- (5) General considerations. In calculating the proportionate or pro rata amount of the cost of any required off-tract facilities which shall be borne by the applicant, the Board shall also determine the pro rata amount of cost to be borne by other owners of lands which will be benefited by the proposed improvements.

SECTION 2. The City Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this Ordinance to the Bergen County Planning Board and to all other persons or entities entitled thereto pursuant to N.J.S.A. 40:55D-15 and 40:55D-62.1. The City Clerk shall execute any necessary Proofs of Service of the notices required by this section, and shall keep any such proofs on file along with the Proof of Publication of the notice of the required public hearing on the proposed change.

SECTION 3. After introduction, the City Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the City Council, within thirty-five (35) days after referral, a report including identification of any provision in the proposed Ordinance which are inconsistent with the Master Plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

SECTION 4. If any paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

SECTION 5. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 6. This ordinance shall take effect immediately upon: (i) adoption; and (ii) publication in accordance with the laws of the State of New Jersey.

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RECORD OF VOTE

FIRST READING DATE: October 21, 2025

COUNCIL	MOTION	VOTE
David	X	Y
Rosenzweig		Y
Tokayer		Y
Wilson		Y
Wisotsky		Y

DATE PUBLISHED IN THE RECORD: October 27, 2025

DATES PUBLIC HEARINGS HELD: November 25, 2025

DATE SECOND READING HELD: November 25, 2025

COUNCIL	MOTION	OPEN	MOTION	CLOSE	MOTION	ADOPT
David						
Rosenzweig						
Tokayer						
Wilson						
Wisotsky						

Y=YES

N=OPPOSED

A=ABSTAINED

AB=ABSENT

PRESENTED TO MAYOR:

APPROVED _____

REJECTED _____ (VETO)

DATE: _____

MAYOR MICHAEL WILDES _____

I do hereby certify that the foregoing is a true and exact copy of an Ordinance adopted and approved by the Mayor and Council of the City of Englewood.

Yancy Wazirmas, RMC
City Clerk