

**EAST ALLEN TOWNSHIP
5344 Nor-Bath Boulevard
Northampton, Pennsylvania 18067
Telephone: 610-262-7961
Fax: 610-262-8788**

**PETITION TO AMEND ZONING ORDINANCE
ESCROW AGREEMENT**

1. Required "Initial Escrow Amount": \$ _____
2. Name of Applicant: _____
Address of Applicant: _____
Telephone Number: _____
E-Mail Address: _____
3. Name of Owner (if different than Appellant): _____
Address of Owner: _____
Telephone Number: _____
E-Mail Address: _____
4. Subject Property Address: _____
Tax Parcel ID Number(s): _____
5. Copy of Deed Attached: Yes/No (Circle One)
6. Copy of Agreement of Sale Attached (if no Deed): Yes/No (Circle One)

This Agreement, dated this _____ day of _____, 20____, by and between the Township of East Allen, a Township of the Second Class, with its principal place of business being located at 5344 Nor-Bath Boulevard, Northampton, Pennsylvania 18067 (hereinafter referred to as "Township"),

- AND -

The Owner and Applicant, business(es) or individual(s) doing business in, or residing in the Commonwealth of Pennsylvania, with their principal place of business or residence being located at the address(es) identified above (both of whom are hereinafter referred to as "Applicant").

WITNESSETH:

WHEREAS, Applicant has filed a Petition to Amend Zoning pertaining to the real estate and Tax Parcel Number(s) identified hereinabove; and –

WHEREAS, Applicant has requested to meet, receive comment and communicate ("communications") to and with the Township's professionals and consultants, including, but not limited to the Township Engineer, Township Solicitor, and other experts, consultants and professionals employed and/or contracted by the Township concerning the Petition to Amend Zoning (all of whom are hereinafter referred to as "Professionals"); and –

WHEREAS, Applicant acknowledges that the administrative overhead of the Township, including but not limited to staff services of its secretaries, code enforcement officer, planning officer, zoning officer and other Township employees now or hereafter employed (all of whom are hereinafter referred to as "Staff") will be utilized in said communications, at the expense of and to the financial detriment of the Township; and –

WHEREAS, Applicant acknowledges that the Township will incur a certain amount of engineering fees, legal fees, consulting fees, costs, charges and expenses (collectively "Expense" or "Expenses") on account of said communications with the Professionals and Staff; and –

WHEREAS, Applicant acknowledges that Expenses will be incurred by the Township in connection with the above, and Applicant is willing to be responsible for the payment of the same.

NOW THEREFORE, intending to be legally bound, the parties hereto do promise, covenant and agree as follows:

1. Incorporation of Introduction. The "Whereas" paragraphs above are incorporated herein by reference as if fully set forth hereinafter at length and are a part of this Agreement.
2. Consent of Township to Communications in Non-Zoning Hearing Board Matters. Township, at the request of Applicant agrees to allow its Professionals and Staff to meet, comment and communicate with Applicant, in non-Zoning Hearing Board matters so long as the Expenses incurred by the Township relative to the same are fully paid by Applicant. Applicant hereby agrees to be solely responsible for the payment of same.
3. Applicant's Agreement to Pay Expenses in Non-Zoning Hearing Board Matters. In consideration of the privilege of Applicant meeting with the Professionals and Staff of Township in non-Zoning Hearing Board matters, Applicant hereby agrees that this Agreement supplements the Township Fee Schedule and any other applicable laws, ordinances, rules and regulations governing reimbursement to the Township of Expenses, including applicant's rights under the Pennsylvania Municipalities Planning Code ("M.P.C."). Applicant agrees that all Expenses incurred by the Township shall be paid for by Applicant. Such expenses shall include any bank service charges or other charges imposed by any bank, and any accounting expense incurred by the Township. Applicant will deposit, for the sole benefit of the Township, as escrow agent, the initial escrow sum stated hereinabove on page one as "initial escrow amount"; said monies to be held in an interest-bearing segregated account administered solely by the Township, for the exclusive purposes hereinafter set forth (hereinafter "Escrow"). Receipt of the initial escrow amount will be acknowledged by Township when so deposited. Any and all interest accrued in the Escrow account will be to the benefit of the Applicant.

4. Expenditure of Escrow Funds – Non-Zoning Hearing Board Matters.
- (a) Applicant agrees that the Escrow account shall be used for payment of and reimbursement to the Township for any and all Expenses which may be based on minimum charges for particular services.
 - (b) The Applicant agrees to pay for the full cost of the appearance fees of Court Stenographers utilized by the Township at all hearings and meetings.
 - (c) The Township will upon request provide Applicant with an invoice containing copies of all invoices received by the Township from its Professionals and/or Staff. Any provision governing reimbursement to the Township of such Expenses contained in the M.P.C. or any other applicable law, ordinance, rule or regulation notwithstanding, the parties further agree that, if Applicant disputes any Expenses, or any other cost associated with the same, said dispute shall be referred, at the Applicant's sole expense, to an engineer and/or attorney depending on the type of fee disputed, licensed in the Commonwealth of Pennsylvania (hereinafter "Professional Arbitrator"). The Professional Arbitrator shall be chosen by agreement of the parties, or, if that cannot be accomplished, by a Judge of the Court of Common Pleas of Northampton County. Within twenty-five (25) days after his or her appointment as Professional Arbitrator and his or her receipt of said Expense, the Professional Arbitrator shall make a final, binding and non-appealable decision as to whether the Expense in question is, in whole or in part, reasonable and necessary and whether the Expense is to be paid in whole or in part, by the Applicant. Within ten (10) days of the determination by said Professional Arbitrator, the monies shall be paid in accordance with the Professional Arbitrator's determination. Further, during the time period that elapses while the Professional Arbitrator is making his/her determination, all time constraints imposed upon the Township under the M.P.C. or any other applicable law, ordinance, rule or regulation are hereby waived by the Applicant. In the event Applicant disputes the amount of any Expense, the Applicant shall notify the Township in writing by certified or registered mail of any disputed Expense. Said notification must be received by the Township within ten (10) days from the date the Township issued an invoice to the Applicant, or the right of Applicant to dispute same shall be deemed waived.
5. Minimum Balance. The balance of the Escrow shall at no time be in an amount of less than fifty (50%) percent of the initial escrow amount stated hereinabove on page one ("Minimum Balance"). In the event that the balance of the Escrow Account falls below the Minimum Balance, the Township shall request Applicant to deposit in the Escrow, within ten (10) business days after receipt of notification by the Township, the difference

between the then current balance and the Minimum Balance. At its sole discretion, the Township shall review the Escrow on a periodic basis and may require a reasonable increase in the Minimum Balance. In the event the Township requests any additional deposits, it will provide the Applicant with a general description of the purposes for which such additional deposits will be required. At such time after the Applicant's hearings are finally concluded or withdrawn, any balance remaining in the Escrow account after payment of expenses shall be returned to Applicant.

6. Escrow as Security. The Escrow established herein shall be deemed Cash Collateral for the sole and exclusive benefit of the Township, as that term is applied in Federal Bankruptcy Law proceedings. This instrument shall be deemed a Security Agreement creating a first-lien security interest in favor of the Township in the Escrow under the Uniform Commercial Code.
7. Failure to Maintain Minimum Balance. If Applicant fails at any time, following a request from the Township to maintain the Minimum Balance, the parties agree that the Township and the Zoning Hearing Board will not be obligated to convene hearings, consult or meet with the Applicant or its representatives; and Applicant waives any and all rights it may have under the M.P.C. or any decisional law pertinent thereto, relative to any and all time limits for review and decision imposed by the M.P.C. Any hearings shall then resume at such time as the Escrow is replenished by Applicant.
8. Termination. Either party may terminate this Agreement for any reason by providing a notice of intent to terminate. It is understood and agreed that, other than for good cause shown, the Township may not terminate this Agreement so long as the Applicant is in compliance in all material respects with all of the terms of this Agreement and any other related documentation between the parties, their successors and assigns. Upon receipt of said Notice by the Township, this Agreement shall terminate forty-five (45) days from said date. All costs due the Township, including those incurred by the Township within the above-referenced time period, shall be paid from the Escrow created herein. Any balance in the Escrow fund shall be paid by the Township to Applicant within ten (10) days after the above-mentioned forty-five (45) day time period.
9. Issuance of Notice of Intent to Terminate. Any Notice of Intent to Terminate required under this Agreement, to be effective, shall be forwarded by certified mail, return receipt requested, addressed as follows:

If to Applicant:

To the Name and Address of
Applicant Stated on Page One

If to Township:

Township Manager
East Allen Township
5344 Nor-Bath Boulevard
Northampton, PA 18067

With a Copy to:

Joseph J. Piperato, III, Esquire
3894 Courtney Street, Suite 105
Bethlehem, PA 18017

10. Severability. The invalidity or unenforceability of any particular provision of this Agreement shall not affect any other provision hereof, and the Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.
11. Non-Waiver. No failure to act upon any default or to exercise any right or remedy hereunder shall constitute a waiver of such default or a waiver of any other terms of the within Agreement.
12. Binding Effect. This Agreement shall be binding upon the parties hereto, their successors and assigns, and shall not be altered, amended or vacated except by the express written consent of all parties.
13. Applicable Law. This Agreement shall be governed and shall be construed and interpreted in Pennsylvania in accordance with the laws of the Commonwealth of Pennsylvania. The exclusive venue for the resolution of all disputes hereunder shall be Northampton County, Pennsylvania, only.
14. Counterparts. This Agreement may be signed in multiple counterparts and all such counterparts shall be deemed to be one and the same Agreement.
15. Full Understanding by Applicant. The Applicant has fully read, completely understands and agrees to the following Township Escrow Policies and Procedures:
 - A. Application and escrow fees will be submitted as separate checks, made payable to "East Allen Township".
 - B. All escrow fees must be paid at the time of filing an application.
 - C. The escrow fee shall be payable at the time of the submission to the Township and shall remain in effect through the completion of the hearing process.
 - D. The calculation of escrow is merely an estimate of the costs associated with the application. It is possible that additional escrow funds may be necessary that exceed the initial calculation of costs and fees.
 - E. Escrow funds will be deposited in an interest bearing account with all interest accrued benefitting the Applicant. Each escrow account shall be maintained separately within a single Master Escrow

Account. All required bank documentation for the escrow account must be filed with the Township at the time of application.

- F. An escrow balance going below 50% of the initial escrow amount must be replenished back to the original amount for the hearing process to continue. If escrow accounts go below the minimum amount, no further hearing will be conducted.
- G. The escrow account balance will be refunded approximately sixty (60) days after the conclusion of the hearing process. Escrow account balances will be returned only when all Expenses related to the matter have been paid by the Township. Refunds will be made only to the party who funded the escrow.

IN WITNESS WHEREOF, and in consideration of the Township's acceptance of this Agreement and with the intent to be legally bound, the undersigned have executed this Agreement on the date beside his/her/its name.

ATTEST:

EAST ALLEN TOWNSHIP:

By _____

By _____

Print Name: _____

Title: _____

Date: _____

WITNESS/ATTEST:

APPLICANT:

By _____

By _____

Print Name: _____

Date: _____

WITNESS/ATTEST:

OWNER:

By _____

By _____

Print Name: _____

Date: _____