

RESOLUTION NO 20-12

**CITY OF ST. CLAIR
COUNTY OF ST. CLAIR, MICHIGAN**

A RESOLUTION ESTABLISHING A ZONING ESCROW FEE POLICY; A BASIC APPLICATION FEE SCHEDULE; AND AN ESCROW ACCOUNT SCHEDULE IN ORDER TO PROVIDE THE CITY REIMBURSEMENT FOR EXPENSES IN ZONING PROCEEDINGS AND OTHER ZONING REVIEWS.

A RESOLUTION of the City Council of the City of St. Clair adopted at a regular meeting of said Council held at City Hall located at 547 N. Carney Drive, St. Clair, Michigan, on the 1st day of June, 2020 at 7:00 PM.

WHEREAS, Section 406 of the Michigan Zoning Enabling Act (MCL Section 125.3406(1)) authorizes the City to require the payment of reasonable fees for zoning permits; and

WHEREAS, the St. Clair Zoning Ordinance provides that certain fees paid to the City for various zoning applications shall be established by the City Council resolution; and

WHEREAS, the cost to the City in reviewing applications for various zoning approvals may differ greatly between different applications; can be significant especially when there are additional and at time extraordinary out-of-pocket expenses (e.g., for engineering, planning, and/or legal review) above and beyond what is associated with the typical review of minor projects; and cannot always be accurately predicted at the time an application is made; and

WHEREAS, the City Council believes that it is reasonable and appropriate that the actual cost and expenses associated with reviewing such applications, except for routine expenses, should be properly borne by the applicant rather than by the taxpayers of the City; and

WHEREAS, the City Council intends that zoning review fees and escrow amounts be reasonably proportionate to the costs incurred by the City for the particular application processed, and that such fees and escrow amounts be used to defray the costs of processing applications and administering the City Ordinances under Michigan law; and

WHEREAS, the City Council intends to establish the basic application fees and escrow accounts for zoning applications as permitted by law;

NOW, THEREFORE, it is hereby **RESOLVED** by the City Council of St. Clair, County of St. Clair, State of Michigan, as follows:

1. The City Council hereby adopts the Basic Application Fee Schedule set forth below, which fees are considered to cover only the City 's consideration of the application at regularly scheduled Planning Commission, Zoning Board of Appeals, and/or City Council meetings and publication and mailing of notice of hearing, as applicable.

BASIC APPLICATION FEE SCHEDULE

Zoning Board of Appeals Requests	\$250.00
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Special Land Use Permits	\$250.00
Site Plan Review	\$400.00
Rezoning Requests	\$400.00
Planned Unit Development Requests	\$600.00
Platted Subdivision & Site Condominium	\$600.00

The Basic Application Fee Schedule is intended to cover the following general expenses incurred by the City:

- i) Hearings held at regular Planning Commission, Zoning Board of Appeals, and City Council meetings to consider zoning applications;
 - ii) Publication of legal notices in the *Times Herald*, or another newspaper of general circulation within the City designated by the City Superintendent;
 - iii) Mailing of legal notices to all property owners and occupants as may be required by the Zoning Ordinance or statute;
 - iv) Basic review by the Building Official and/or Zoning Administrator;
 - v) Drafting of an ordinance amending the Zoning Ordinance and Map, special land use permits, and records of variance, if applicable.
2. The City Council may amend the Basic Application Fee Schedule from time to time, as necessary.
 3. The City Council hereby also adopts the Escrow Account Schedule set forth below, which authorizes assessments in addition to those required by the Basic Fee Schedule and shall be considered necessary to cover the additional costs and expenses incurred by the City in processing zoning applications, as set forth below.

ESCROW ACCOUNT SCHEDULE

An Escrow Account may be established for each of the following matters:

- a. Planned Unit Development Projects;
- b. Site Plan Reviews;
- c. Special Land Uses;
- d. Subdivision Plat Reviews;
- e. Site Condo Reviews; and
- f. Other applications when City staff and/or officials determine the need for establishing an Escrow Account based on the potential for exceptional or unusual costs being incurred by the City.

An Escrow Account shall be established and maintained in the trust and agency fund of the City as provided in this Resolution where, in the opinion of the Planning Commission Chair, the Zoning Board of Appeals Chair, or the City Superintendent, it is likely that advice from consultants will be required in order to properly consider the application, or where it otherwise appears that the application will involve unusual preparation, assistance, or

expenses of implementation on part of the Planning Commission, the Zoning Board of Appeals, or the City Council.

The Escrow Account shall be used to pay for and cover all expenses directly incurred by the City (including the Planning Commission, the Zoning Board of Appeals, and the City Council), in processing, considering, reviewing and approving or denying applications. These additional expenses include, but are not limited to, the following:

- a. Special meetings, including subcommittee meetings, at which the application is reviewed or considered;
- b. Additional meetings deemed necessary due to a lack of information provided by the applicant, or any other cause attributable to the applicant;
- c. Legal services provided to the City, including but not limited to review of application by City Attorney, attendance at meetings and/or public hearings, and preparation of appropriate documentation, including but not limited to opinion letters, approving resolutions or ordinances;
- d. Planning services provided by the City Planner, including but not limited to review of application by City Planner, and preparation of appropriate documentation, including but not limited to planning reports;
- e. Engineering services provided by the City Engineer, including but not limited to review of application by City Engineer, and preparation of appropriate documentation, including but not limited to engineering reports;
- f. Additional notices of public hearing(s) or meeting(s);
- g. Traffic studies;
- h. Environmental impact studies;
- i. Obtaining a court reporter and/or recording devices, including transcription costs; and
- j. Other similar services and expenses.

When an Escrow Account is required, it shall be established at the time the application is filed. No application shall be processed by the City prior to the Basic Fee set forth in Section 1 of this Resolution being paid and the Escrow Account being established.

The City Superintendent, or the Superintendent's designee, shall determine the amount of the initial deposit required based on an amount reasonably estimated to be sufficient to cover the expected costs and expenses to be incurred by the City and paid from the Escrow Account as provided below. The initial deposit shall not be less than \$1,500.00, and the amount required to be deposited shall be increased in increments of \$500.00. Factors for determining the initial amount of the Escrow Account shall include, but not be limited to, such variables as project size, location, cost of providing public services, environmental impact studies, time constraints, traffic studies, and other issues deemed relevant by the Superintendent or the Superintendent's designee.

At no time prior to the City's completion of review and process of the application shall the Escrow Account Balance be allowed to drop below \$500.00. If an escrow Account balance does drop below \$500.00, the City Superintendent or the Superintendent's designee shall notify the applicant. The applicant must deposit an additional amount of at least \$500.00, or such greater amount as determined by the City Superintendent or the Superintendent's designee to be reasonably necessary to cover the anticipated remaining and/or future expenses, to be paid from the Escrow Account. Any additional deposits into the Escrow Account required by the Superintendent or the Superintendent's designee must be deposited promptly to the City in order to continue processing the application. No further

review or processing of the application shall occur until the Escrow Account has been re-established to the appropriate level as determined by the Superintendent or the Superintendent's designee. If an additional deposit into an Escrow Account is required as provided in the Resolution and has not been deposited, the matter will be removed from the current agenda of the Planning Commission, the Zoning Board of Appeals, or the City Council, as applicable, and the matter will be adjourned until such time as the required fees are deposited into the Escrow Account, or an appeal of the matter has been decided in favor of the applicant.

The City may draw funds from the applicant's Escrow Account to reimburse the City for expenses incurred by the City directly related to the review and processing of the application, or to distribute the funds to pay its agencies or agents upon verification of the expenses incurred. The City Treasurer shall maintain records regarding Escrow Accounts and shall authorize the disbursement of Escrow Account funds in writing. Such Escrow Account funds shall be accounted for separately and maintained in a separate bank account or bank account category. Any excess funds will be refunded by the City to the applicant, without interest.

No final approval, building permit, certificate of use and occupancy permit, or other similar approvals will be granted or issued by the City unless all required fees have been deposited into the escrow Account, except as otherwise determined by the City Council for good cause.

In the event an applicant objects to the reasonableness or the amount of an Escrow Account, including but not limited to the amount of the initial deposit required, the amount of additional deposits required, or how the City has applied the funds from the Escrow Account, the aggrieved applicant may appeal the City's determination regarding the matter to the City Council. All such appeals shall be in writing and shall be made not later than thirty (30) days after receipt of the disputed Escrow Account billing or of the decision of the Superintendent or the Superintendent's designee. The City Council shall establish a date and time to hear the appeal and shall permit the applicant or the applicant's agent to appear before the City Council at a regularly scheduled Board meeting to object to and appeal the decision of the Superintendent or the Superintendent's designee. The City Council may affirm, modify, or reverse the decision of the Superintendent or the Superintendent's designee.

4. All fees established by this resolution shall be effective immediately.
5. All resolutions in conflict in whole or in part with this resolution are hereby revoked to the extent of such conflict.

RESOLUTION DECLARED ADOPTED

Bill Cedar, Jr., Mayor
City of St. Clair, Michigan

CERTIFICATION

The foregoing is a true and complete copy of a Resolution adopted by the City Council in the City of St. Clair, St. Clair County, Michigan at a regular meeting held on the 1st day of June, 2020. Public Notice of the meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of 1976 as temporarily amended by Governor Whitmer's Executive Order 2020-48, and the Minutes of said meeting were kept and will be or have been made available as required by said Act.

Members Present: Mayor Cedar, Members Ellery, Kindsvater, Kuffa, LaPorte, McCartney, Watt
Members Absent: None

It was moved by Member Kindsvater, and supported by Member LaPorte to adopt the Resolution.

Members Voting Yes: Kuffa, LaPorte, McCartney, Watt, Ellery, Kindsvater, Cedar
Members Voting No: None

The Resolution was declared adopted by the Mayor and has been recorded in the Resolution Book.

Annette Sturdy, City Clerk
City of St. Clair, Michigan