

## **113.6 Establishing Fees and Expenses Charged for Land Use Applications and Land Development Review Ordinance**

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### **SECTION I – POLICY**

The Town of Berry finds that applications for zoning amendments, conditional use permits, driveway permits, certified survey maps, plats, or modifications of previous land use permits present complex issues. The Town Plan Commission and Board should have expert consultants available to assist the Commission and Board. The Commission and Board should not be dependent on opinions of consultants working for the applicant or other agencies. However, it is not fair for the taxpayers to pay the cost of hiring such consultants when the benefit accrues largely to the applicants. Therefore, it is the Town's policy that expenses reasonably incurred by the Town in reviewing any land use application shall be paid by and recovered from the applicants.

### **SECTION II – DEFINITIONS**

As used in this section, the following terms have the meaning herein stated:

- A. Applicant. The person or legal entity which applies for a land use approval of the Town. The term includes the owner of the land involved if the application is being presented by a person or entity which does not yet own the land and is pursuing the land use approval as agent of or with permission of the owner.
- B. Land Use Approval. Process involving a request for: rezoning; a conditional use permit; modification or release of conditions or covenants which are part of an earlier approval; a driveway permit; a certified survey map; a plat; modification of the comprehensive plan and any other regulatory action involving an interest in real estate which the Town is required or allowed to take action.
- C. Deposit. An amount of cash which is paid to the Town Treasurer to be held by the treasurer to pay expenses incurred by the Town for reviewing requests for land use approvals.
- D. Fees. Are flat amounts establish by the Town to cover the basic expenses associated with a particular kind of land use approval.
- E. Expenses. Are those costs which the Town incurs or is obligated to pay to third parties as the result of the Town's consideration of a request for a land use approval.
- F. Invoices. Are the Town's transmittal of expenses incurred by the Town.

### **SECTION III – GENERAL**

- A. The applicant shall pay the Town the fees and expenses of the Town in the amounts and at the times specified. The applicant shall also sign an agreement with the Town obligating the applicant to pay the expenses as presented in invoices.

- B. No application shall be considered unless the fee has been paid, any deposit has been made and all invoices are paid.
- C. If an application is in the process of consideration and invoices are not paid in a timely fashion, the Town may elect to suspend consideration of the land use approval until payment is made.
- D. If the applicant is not the owner of the real estate involved in the application, the applicant shall present evidence that the applicant is authorized by the owner to present the application, and the owner shall also sign all agreements related to payment of fees.

#### **SECTION IV – FEES**

The Town incurs costs as the result of an application for a land use approval being filed. Staff is required to create a file, schedule the matter on public meeting agendas, inform members of the Board and Commission, refer the application to consultants and publish required notices. To reimburse the Town for those basic costs, upon filing an application for the following land use approval requests, the applicant shall pay a non-refundable fee as indicated in Administrative Fees Policy 113.4

#### **SECTION V - EXPENSES, ESTIMATES AND DEPOSITS**

- A. The Town has developed general estimates of the expenses it will incur in various land use approvals. These estimates are intended to advise applicants of the approximate estimated expenses applicants may be required to pay. In lieu of the scheduled deposit amounts in this ordinance, the Town Chair or Clerk may obtain a more specific estimate from the Town's consultants and require that the specific amount, either greater or lesser, be the deposit.
- B. Before the Town will consider any land use approval, the applicant shall deposit the amount in the schedule or determined by the Town with the Town Treasurer. Consulting, engineering, inspection, legal, and other expenses shall be the actual costs to the Town on the basis of submitted invoices. Such fees may be billed monthly, or upon completion of the project as determined by the Board.
- C. As expenses are billed to the Town, the expenses will be paid from the deposit. If the Town determines that the expenses may exceed the amount deposited, the Town may require the applicant to deposit additional funds. If the additional deposit is not made within two weeks, consideration of the land use approval shall be suspended.
- D. The applicant is liable for all engineering, inspection, consulting and legal fees incurred by the Town for services performed by or on behalf of the Town in conjunction with any land use approval, and with such inspections as the Town's public works staff deems necessary to assure that the construction of the required improvements is in compliance with the plans, specifications and ordinances of the Town or any other governmental authority.
- E. To assure prompt payment of the expenses, if expenses are anticipated, the following are the minimum amounts to deposit, which may be requested:
  - 1. Comprehensive plan amendments – \$1,000.
  - 2. Zoning change to commercial or business – \$1,500.
  - 3. Zoning change to permit subdivision development – \$1,500.
  - 4. Site Plans – \$1,000.
  - 5. Preliminary certified survey map – \$1,000 plus \$100 for each lot or parcel.

6. Preliminary Plat – \$1,000 plus \$100 for each lot or parcel.
  7. Conditional Use Permit other than for mineral extraction, \$1,500. If a mineral extraction permit is involved, \$3,000.
  8. If the real estate involved in the land use approval is located in a shoreland, wetland or floodplain area, there shall be an additional deposit of \$1,000.
- F. The applicant shall reimburse the Town for the cost of time of Town officers or employees who are engaged in providing services or assistance to the applicant in connection with the proposed or approved plat or land division other than the services covered by the fee. The applicant shall also reimburse the Town for the cost of per diems, mileage and advertising or notices of any special meetings called solely to accommodate a request from the applicant.
- G. The Clerk shall not sign a plat or certified survey map, or otherwise communicate approval of a land use approval request until such time as all fees and expenses have been paid and all dedications or fees in lieu of dedications have been paid.
- H. If the land use approval request is one which is approved automatically by the passage of time, the Town may reject the proposal on the ground that required fees have not been paid.
- I. Upon completion of a land use review approval process, any remaining funds shall be promptly refunded to the applicant.
- J. The applicant shall reimburse the Town for all costs of enforcing this ordinance and the development contract entered pursuant to this ordinance, including actual out of pocket costs, employee time, actual expert witness fees, and reasonable actual attorneys fees incurred.
- K. The failure to pay amounts due under this ordinance within 60 days of such amounts becoming due may be treated as a withdrawal of the application by the Town.

#### **SECTION VI – EFFECTIVE DATE**

This ordinance shall be effective one day following proper publication and posting as required by Wisconsin Statutes and after adoption of this ordinance by the Town Board.

Dated this 18<sup>th</sup> day of December, 2017

Posted: December 19, 2017

Brenda Kahl, Clerk/Treasurer

Jeff Davis, Supervisor

Joe Kruchten, Supervisor

Anthony Varda, Chair

Michael Statz, Supervisor

Duane Haag, Supervisor