

ORDINANCE NO. ~~10~~-16

CITY OF SOUTH LYON
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND THE CITY OF SOUTH LYON CODE OF ORDINANCES, CHAPTER 2 - ADMINISTRATION, BY ADDING ARTICLE VIII - REVIEW FEE ESCROW DEPOSITS, SECTIONS 2-301 THROUGH 2-310 TO ESTABLISH REVIEW FEE ESCROW DEPOSIT AND REIMBURSEMENT REQUIREMENTS AND GUIDELINES

THE CITY OF SOUTH LYON ORDAINS:

PART I. Amendment to Chapter 2. Chapter 2- Administration of the City of South Lyon Code of Ordinances, is amended to add the following Article VIII - Review Fee Escrow Deposits, Sections 2-301 through 2-310 as follows:

ARTICLE VIII. - REVIEW FEE ESCROW DEPOSITS.

Sec. 2-301. – Intent.

- (a) WHEREAS, the cost to the City in reviewing and processing applications and requests for various actions and approvals may differ greatly between different applications and requests, can be significant especially when the City would incur additional and extraordinary out-of-pocket expenses (e.g., for engineering, planning, legal and/or other professional reviews) above and beyond what is associated with the typical review of minor projects. These costs and expenses cannot always be accurately predicted at the time an application or request is made; and
- (b) WHEREAS, the City Council believes that it is reasonable and appropriate that the actual costs and expenses associated with reviewing such applications, except for routine expenses, should be properly borne by the applicant or requestor rather than by the taxpayers of the City; and
- (c) WHEREAS, the City Council desires to set review fees for applications and requests for typical actions and approvals where the costs and expenses are more predictable and more easily estimated and to provide for procedures for requiring applicants and requestors to deposit amounts in escrow and guidelines for setting initial escrow deposit amounts where the action or approval is not typical and the costs and expenses of processing and reviewing it are not easily determined and may be extraordinary; and
- (d) WHEREAS, the City Council intends that review fees and escrow deposit amounts be reasonably proportionate to the costs and expenses incurred by the City for the particular application or request, and that such review fees and escrow amounts be used to defray the costs and expenses of processing and reviewing the application or request and of administering the review process and the City's Code of Ordinances and carrying out the City's business; and

- (e) WHEREAS, the City Council intends to set forth requirements and guidelines for review fee escrow deposits and reimbursement of costs and expenses incurred by the City from such escrow funds.

Sec. 2-302. – Requirements and guidelines.

- (a) In addition to the other applicable zoning and review fees established and set by other City Council resolutions, when the City Manager, or his or her designee, determines that an application or request for City approval or action will require reviews, analysis, input and other information from consultants (engineers, planners, traffic engineers, environmental consultants, architects, attorneys, etc.) which have the potential to cause the City to incur unusual, exceptional, or extraordinary costs and expenses directly associated with the application or request, the City Manager, or his or her designee, may require that the applicant or requester deposit funds to establish an escrow account against which such costs and expenses will be charged.
- (b) The City may require that an escrow deposit be established for all applications and requests for which the City will incur expenses as determined by the City Manager or his or her designee.
- (c) The City Manager, or his or her designee, shall determine the amount of the initial review fee escrow deposit estimated to be sufficient to cover the expected costs and expenses likely to be incurred by the City as a result of the application or request. The initial deposit shall not be less than \$1,500. Factors for determining the initial escrow deposit amount shall include, but not be limited to, such variables as the size of the project, the characteristics and complexity of the project, the types of consultants needed to evaluate the application or request, time constraints, the need for specialized knowledge or expertise, and other relevant factors. If it is determined that a review fee escrow deposit is required, no application or request shall be processed until the initial escrow deposit is submitted to the City and all other applicable fees are paid.
- (d) At no time prior to the City's completion of its review and processing of the application or request shall the escrow balance be allowed to drop below \$500. If an escrow balance drops below \$500, the City Manager, or his or her designee, shall notify the applicant or requestor of the need to deposit additional escrow funds and the specific amount to be deposited. The applicant or requestor must deposit an additional amount as determined by the City Manager, or his or her designee, to be reasonably necessary to cover the anticipated remaining and/or future costs and expenses to be incurred by the City and to be paid from the escrow. Any additional required deposits must be deposited promptly to the City in order to continue processing the application or request. All review and processing of the application or request, including being placed on meeting agendas, will be suspended until the additional escrow deposit is received by the City or an appeal of the matter has been decided in favor of the applicant or requestor.
- (e) The City may draw funds from the applicant's escrow deposit to reimburse the City for costs and expenses incurred by the City directly related to the review and processing of the application, or to redistribute the funds to pay its consultants and agents upon

verification of the costs and expenses incurred. The City shall maintain records regarding escrow deposits and balances and shall authorize the disbursement of escrow funds in writing. Such escrow funds shall be accounted for separately. Any remaining or excess escrow funds will be refunded by the City to the applicant without interest. If remaining or excess escrow funds are returned to the applicant or requestor by mail to the address specified on the escrow receipt or application, and is returned undelivered, the City shall hold such amount and return it to applicant or requestor on demand; however, if such demand is not made within one (1) year after the remaining or excess escrow funds were returned undeliverable, such funds shall be deemed forfeited and shall be deposited in the general fund of the City.

- (f) No approval, building permit, certificate of use or occupancy permit, or other similar approval will be granted or issued by the City unless all required escrow fees have been deposited except as otherwise determined by the City for good cause.
- (g) In the event an applicant or requestor objects to the reasonableness or amount of a required escrow deposit, including but not limited to the amount of the initial required escrow deposit, the amount of additional deposits required, or how the City has applied the escrow funds, an applicant or requestor may appeal the matter to the City Council. All such appeals shall be in writing and shall be made not later than thirty (30) days after the disputed action or billing. The City Council shall establish a date and time to hear the appeal and shall permit the applicant or requestor, or its agent, to appear before the City Council to object to and appeal the decision of the City Manager, or his or her designee. The City Council may affirm, modify, or reverse the decision of the City Manager, or his or her designee.

Secs. 22-303 through 22-310. Reserved.

PART IV. Severability. Should any division, section, subsection, clause, or phrase of this Ordinance be declared by the courts to be invalid, the validity of the Ordinance as a whole, or in part, shall not be affected other than the part invalidated.

PART V. Savings Clause. The amendment of the City of South Lyon Code of Ordinances set forth in this Ordinance does not affect or impair any act done, offense committed, or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment, pending or incurred prior to the amendment of the City of South Lyon Code of Ordinances set forth in this Ordinance.

PART VI. Repealer. All other Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

PART VII. Effective Date; Publication. The provisions of this Ordinance shall become effective fifteen (15) days after its adoption and shall be published within fifteen (15) days of its adoption by publication of a brief notice in a newspaper circulated in the City, stating the date of enactment and the effective date of the ordinance, a brief statement as to the subject matter of this Ordinance and such other facts as the Clerk shall deem pertinent, and that a copy of the Ordinance is available for public use and inspection at the office of the City Clerk.

Made, Passed and Adopted by the South Lyon City Council this 28 day of March, 2016.

John Galeas, Jr.
John Galeas, Jr., Mayor

Lisa Deaton
Lisa Deaton, City Clerk

Certificate of Adoption

I hereby certify that the foregoing is a true and complete copy of the ordinance adopted at the regular meeting of the South Lyon City Council held on the 28 day of March, 2016.

Lisa Deaton
Lisa Deaton, City Clerk

Adopted: 3/28/16
Published: 4/17/16
Effective: 4/24/16