

AN ORDINANCE**of the City Council of the City of Berkley, Michigan
to Add New Article VI, Consultant Costs, to Chapter 2, Administration,
of the City of Berkley Code of Ordinances to require the City's cost of City consultants to
be charged to and paid by the applicant requesting the review or approval,
and to Prescribe a Penalty for Violations.****THE CITY OF BERKLEY ORDAINS:**

SECTION 1: New Article VI shall be added to Chapter 2 of the Berkley City Code, as follows:

ARTICLE VI. CONSULTANT COSTS**Sec. 2-280. Purpose.**

The City Councilmembers find that applications for zoning amendments, planned unit developments, special land uses, site plan review, and various other authorizations, permissions, permits, reviews, inspections, selections, services, or approvals, sometimes present special complexities, burdens, or a need for technical expertise such that it is reasonable and appropriate for the City to seek consultation, advice, engineering, legal review, inspection, and assistance from one or more consultants. The City and its boards and commissions should not have to depend solely on information, findings and opinions produced by consultants or persons who work for the applicant or for other parties or agencies.

The City further finds that in such circumstances, it appropriate for the applicant, rather than the City and its taxpayers, to bear the cost of engaging such consultants for the City when the need for and benefit of these consulting services is primarily created by and for the applicant.

Therefore, it is the City's policy that all such consulting costs incurred by the City should be charged to and paid by the applicant.

Sec. 2-281. Review expenses charged to applicant.

In circumstances where an applicant requests the City for an authorization, permission, permit, review, inspection, selection, service, or approval for which the City deems it is necessary or appropriate to engage one or more consultants to advise and assist the City, the applicant shall be charged and required to pay the City's cost of the consultant(s).

Sec. 2-282. Escrow deposit; documentation of payments from escrow; additional funds; payment in full prior to final approval; refund of surplus.

The City may require the applicant to deposit funds in advance to be held by the City in an escrow account in an amount estimated by the City to cover the City's anticipated consultant costs. The City shall draw down from the escrow account to pay its consultant(s). Payments from escrow shall be documented by a written billing or accounting for the consulting work performed and the cost, and such written documentation may be examined by the applicant. If the City later determines its consulting expenses may exceed the amount in escrow, the City may require the applicant to deposit additional amounts. Final approval shall not be issued until the

applicant has paid in full the City's consultant costs. Any surplus funds shall be refunded by the City to the applicant or other person who deposited the funds.

SECTION 2: Severability Clause

Should any word, phrase, sentence, paragraph, or section of this Ordinance be held invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 3: Penalty

All violations of this ordinance shall be misdemeanors and upon conviction thereof shall be punishable by a sentence of not more than ninety-three (93) days of confinement to jail or by a fine of not more than \$500, or both, in the court's discretion.

SECTION 4: Effective Date

This Ordinance shall become effective 30 days following the date of adoption.

SECTION 5: Publication

The City Council directs the City Clerk to publish a summary of this ordinance in compliance with Public Act 182 of 1991, as amended, and Section 6.5 of the Berkley City Charter.

Introduced on the First Reading at the Regular City Council Meeting on Monday, February 5, 2018.

Passed on the Second Reading at the Regular City Council Meeting on Monday, March 5, 2018.



Daniel J. Terbrack, Mayor

Attest:



Phommady A. Boucher, City Clerk