

Resolution 2011-2
Zoning Escrow Fee Policy

At a regular meeting of the Township Board of the Charter Township of Allendale, Ottawa County, Michigan, held at the Township Hall located at 6676 Lake Michigan Dr., Allendale Charter Township, Ottawa County, Michigan, on February 14, 2011.

Present: Alkema, Kraker, Modderman, Hoekstra, Knoper, Meyer, Morren

Absent: none

The following resolution was offered by Morren and seconded by Hoekstra.

Resolution establishing Zoning Escrow Fee Policy
to provide for reimbursement to Township for Expenses in zoning proceedings
and other zoning reviews

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

WHEREAS, the Allendale Charter Township Zoning Ordinance provides that certain fees to be paid to the Township for various zoning applications shall be established by Township Board resolution (see, for example: Section 3.06 related to Moving Buildings; Section 3.10 related to Temporary Buildings; Section 3.14 related to Condominium Projects; Section 20.03 related to Special Use Permits; Section 24.08 related to Site Plan Review; Section 27.04 related to Permits for Erecting or Altering Buildings and Structures; Section 28.03 related to the Zoning Board of Appeals; and Section 29.01 related to Rezoning Requests); and

WHEREAS, the cost to the Township 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 Township Board 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 Township; and

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

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

THE ALLENDALE CHARTER TOWNSHIP BOARD RESOLVES THAT:

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

BASIC APPLICATION FEE SCHEDULE

Zoning Board of Appeals Requests	\$250.00
Special Land Use Permits	\$250.00
Rezoning Requests	\$400.00
Planned Unit Development Requests	\$600.00
Special Meeting requests	\$500.00

The basic application fee schedule set is intended to cover the following general expenses incurred by the Township.

- a. Hearings held at regular Planning Commission, Zoning Board of Appeals, and Township Board meetings to consider zoning applications;
 - b. Publication of legal notices in the *Advance Newspaper*, or another newspaper of general circulation within the Township designated by the Township Supervisor;
 - c. Mailing of legal notices to all property owners and occupants as may be required by the Zoning Ordinance or statute;
 - d. Basic review by the Building Official and/or Zoning Administrator;
 - e. Drafting of an ordinance amending the Zoning Ordinance and Map, special land use permits, and records of variance, if applicable.
2. The Township Board hereby adopts the Escrow Account Schedule set forth below, which fees shall be in addition to the fees required by the Basic Fee Schedule and shall be considered necessary to cover the additional costs and expenses incurred by the Township in processing zoning applications, as set forth below.

ESCROW ACCOUNT SCHEDULE

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

- a. P.U.D. Projects;
- b. Site Plan Reviews;
- c. Special Land Uses;
- d. Subdivision Plat Reviews;
- e. Site Condo Reviews;

- f. Private Road Approvals;
- g. Open Space Development; and
- h. Other applications when Township 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 Township.

An Escrow Account shall be established and maintained in the trust and agency fund of the Township as provided in this Resolution where, in the opinion of the Planning Commission Chair, the Zoning Board of Appeals Chair, or the Township Supervisor, 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 Township Board.

The Escrow Account shall be used to pay for and cover all expenses directly incurred by the Township (including the Planning Commission, the Zoning Board of Appeals, and the Township Board), 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 of lack of information provided by the applicant, or any other cause attributable to the applicant;
- c. Legal services provided to the Township, including but not limited to review of application by Township 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 Township Planner, including but not limited to review of application by Township Planner, and preparation of appropriate documentation, including but not limited to planning reports;
- e. Engineering services provided by Township Engineer, including but not limited to review of application by Township 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. Review and consideration of proposed private roads;
- j. Obtaining a court reporter and/or recording devices, including transcription costs; and
- k. 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 Township prior to the Basic Fee set forth in Section 1 of this Resolution being paid and the Escrow Account being established.

The Township Supervisor, or the Supervisor'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 Township 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 Supervisor or the Supervisor's designee.

At no time prior to the Township'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 Township Supervisor or the Supervisor'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 Township Supervisor or the Supervisor'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 Supervisor or the Supervisor's designee must be deposited promptly to the Township 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 Supervisor or the Supervisor's designee. If an additional deposit into an Escrow Account is required as provided in this 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 Township Board, 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 Township may draw funds from the applicant's Escrow Account to reimburse the Township for expenses incurred by the Township 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 Township 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 in the trust and agency fund, utilizing individual identifying numbers for each such account. Any excess funds will be refunded by the Township 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 Township unless all required fees have been deposited into the Escrow Account, except as otherwise determined by the Township Board 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 Township has applied the funds from the Escrow Account, the aggrieved applicant may appeal the Township's determination regarding the matter to the Township Board. 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 Supervisor or the Supervisor's designee. The Township Board shall establish a date and time to hear the appeal and shall permit the applicant or the applicant's agent to appear before the Township Board at a regularly scheduled Board meeting to object to and appeal the decision of the Supervisor or the Supervisor's designee. The Township Board may affirm, modify, or reverse the decision of the Supervisor or the Supervisor's designee.

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

Yes: Alkema, Kraker, Modderman, Hoekstra, Knoper, Meyer, Morren


No: none

Resolution declared adopted on February 14, 2011.


Candy Kraker
Allendale Charter Township Clerk

CERTIFICATE

I, Candy Kraker, the Township Clerk of the Charter Township of Allendale, Ottawa County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Township Board at a regular meeting held on the 14th day of February, 2011. I do further hereby certify that public notice of said meeting was given pursuant to and in full compliance with Michigan Act 267 of 1976, as amended, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.


Candy Kraker,
Township Clerk