

CITY OF MACKINAC ISLAND,
MACKINAC COUNTY,
STATE OF MICHIGAN

RESOLUTION

REGARDING DEVELOPER ESCROW APPLICANTS' ESCROW PAYMENT ASSURANCE

WHEREAS, the City finds it necessary to implement the policy and practice of requiring certain developer applicants and property owners whose work requires a Notice to Proceed or Certificate of Appropriateness ("HDC Permit") (individually defined below as an "Escrow Applicant") who are seeking approval from the City Council, the Historic District Commission, and/or Planning Commission of applications for certain commercial development projects or for approval or correction of work commenced without a required HDC Permit, defined below as "Escrow Projects", to:

- (a) establish with the City an "Escrow Applicant's Escrow Account," and to
- (b) deposit in the account an amount estimated to cover projected professional fees, including planner, engineer, architect, and legal fees, to be incurred by the City in the professional review required of applications by the City;

NOW THEREFORE BE IT RESOLVED: Establishment of an Escrow Applicant's Escrow Account:

(1) As used herein, the term "Escrow Project" means (a) proposed new construction or change(s) in an existing structure with a construction value in excess of \$100,000 as determined by the City, or proposed approval or correction of work commenced without a required HDC Permit, (b) any proposed cellular facility, or (c) any demolition of a structure where a demolition permit is required by the City.

(2) As used herein, the term "Escrow Applicant" is the person or entity submitting an application for approval of an Escrow Project.

(3) Upon receipt by the City Council, the Historic District Commission, and/or Planning Commission of a request for approval of an Escrow Project (an "Application"), an escrow account shall be established by the Escrow Applicant with the City ("Escrow Applicant's Escrow Account").

(4) An amount estimated by the City to cover initial anticipated professional expenses expected to be incurred by the City in the review of the Application is to be placed by the Escrow Applicant in this escrow account held by the City. Upon payment of the estimated amount into escrow, the Application review will be commenced by the City. Any amount in the Escrow Applicant's Escrow Account not utilized will be returned to the Escrow Applicant after the issuance of the final approval or denial of the Application.

(5) The building inspector or the City Council's designee may recommend to the applicable City entity a waiver in whole or in part of the requirement of establishing an Escrow Applicant's Escrow Account where the project appears to require little or no consultant review, including, for example, when it involves "Like for Like" work.

*escrow can
be requested half
way thru project if
necessary.*

BE IT FURTHER RESOLVED: Payment before Final Decision: All required approvals by the City Council, the Historic District Commission, and/or the Planning Commission shall be conditioned upon paying any outstanding amount invoiced or to be invoiced to the City for professional services in connection with the Application. Each of the City's professional consultants will provide a statement of the dollar amount incurred and outstanding on the Application review as well as on matters directly relating to and caused by the Application. This statement will be provided within one week from the conditional decision of the applicable City entity. (The conditional decision will become final upon the payment by Escrow Applicant of this outstanding amount). Subsequently, a detailed invoice(s) for professional services will be provided to the Escrow Applicant within 60 days following the conditional approval. After review of the detailed invoice(s), the Escrow Applicant may challenge all or part of the detailed invoice(s), and if the City agrees that the challenged amount should not be charged to the Escrow Applicant, the Escrow Applicant shall receive from the City a refund of such challenged amount.

BE IT FURTHER RESOLVED: That each Escrow Applicant seeking approval of an Application will be provided a copy of the following written Notice:

NOTICE TO ESCROW APPLICANTS FOR CITY APPROVAL

Establishment of an Escrow Applicant's Escrow Account: Upon receipt of a request from a person or entity (the "Escrow Applicant") for approval by the City Council, Planning Commission, and/or Historic District Commission (the "Application") for an Escrow Project which means (a) proposed new construction or change(s) in an existing structure with a construction value in excess of \$100,000 as determined by the City, or proposed approval or correction of work commenced without a required HDC Permit, (b) any proposed cellular facility, or (c) any demolition of a structure where a demolition permit is required by the City, an escrow account shall be established by the Escrow Applicant with the City. An amount estimated by the City to cover initial anticipated professional expenses expected to be incurred by the City in the review of the Application is to be placed by the Escrow Applicant in this escrow account held by the City. Upon payment of the estimated amount into escrow, the Application review will be commenced by the City. Any amount in the Escrow Applicant's escrow account not utilized will be returned to the Escrow Applicant after the issuance of the final approval or denial of the Application.

Payment before Final Decision: All required approvals by the City Council, Planning Commission, and/or Historic District Commission shall be conditioned upon paying any outstanding amount invoiced or to be invoiced to the City for professional services in connection with the Application. The City's professional consultants will provide a statement of the dollar amounts incurred and outstanding on the Application review as well as on matters directly relating to and caused by your Application. This statement will be provided within one week

from the conditional decision of the applicable City entity. (The conditional decision will become final upon the payment by Escrow Applicant of this outstanding amount). Subsequently, a detailed invoice(s) for professional services will be provided to the Escrow Applicant within 60 days following the conditional approval. After review of the detailed invoice(s) an Escrow Applicant may challenge all or part of the detailed invoice(s) by direct discussions with the professional who charged the fee to try to resolve the challenge, and if not so resolved, then by discussions with the City, and if the City agrees that the challenged amount should not be charged to the Escrow Applicant, the Escrow Applicant shall receive from the City a refund of such challenged amount.

MOVED:

SECONDED:

Ayes:

Nayes:

Absent:

Adopted at a regular meeting of the City Council of the City of Mackinac Island held on the ____ day of _____, 2023+.

STATE OF MICHIGAN)
)
COUNTY OF MACKINAC)

_____, Clerk

I, _____, duty elected Clerk of the City of Mackinac Island, do hereby certify that the foregoing is a true copy of a Resolution adopted by the City of Mackinac Island at a regular meeting of the City Council held on the ____ day of _____, 2023+.

_____, Clerk

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