

**Suttons Bay Township
Leelanau County, Michigan**

Ordinance No. 6 of 2017

AN ORDINANCE TO RESCIND ORDINANCE 97-01 IN ITS ENTIRETY
AND TO SET FORTH THE AUTHORITY TO ESTABLISH
PERMIT FEES AND GUARANTEES
WITH REGARD TO TOWNSHIP ORDINANCES

THIS ORDINANCE SHALL BE KNOWN AS THE
PERMIT FEES AND GUARANTEES ORDINANCE.

Suttons Bay Township Ordains:

Section 1. Definition. As used in this Ordinance, Reviewing Body: for the purposes of this Ordinance, "Reviewing Body" shall mean either the Township Board, Planning Commission, or Zoning Board of Appeals.

Section 2. Interpretation

Fees, as set from time to time by the Suttons Bay Township Board, and adopted by resolution as the "Suttons Bay Township Fee Schedule" shall be collected for the administration of Suttons Bay Township ordinances and statues.

Section 3. Applicability

- A. If a project or application requires a review under multiple categories of the Fee Schedule, or review under multiple ordinances and regulations, a separate fee may be charged for each review required by such regulations or ordinances.
- B. The legislative body shall from time-to-time establish and publish a "Schedule of Fees" for the operation of its Ordinances, including but not limited to Freedom of Information requests, cemetery lots, land use permits, land divisions, sign permits, private roads permits, minor and major site plan reviews, rezoning requests, variances and appeals, and short term rental fees.
- C. The fees shall have different categories for different types and shall be designed within in each category to cover up to, on average, all costs associated with the processing of the service provided for the fee.
- D. Fees pursuant to this Ordinance shall be paid when application is made. The application shall not be processed until the fees are paid.
- E. Other than provided for in Section 6.F of this Ordinance, all fees paid to Suttons Bay Township pursuant to this Ordinance shall be non-refundable, and shall be retained by the Township even if the applicant withdraws the application.

Section 4. Additional Costs

When the Township first receives an application, which may be of such a nature and complexity that review will be more involved than normal and that additional fees may be required; the Reviewing Body shall act to declare that is the case and by motion, may find the application requires the assistance of experts in review of specified aspects or issues of the application.

- A. Additional costs are when:
 - 1. The complexity of reviewing the application, in the judgement of the Reviewing Body, requires hiring expertise beyond that of the Reviewing Body or zoning administrator, such as but not limited to hiring the services of an attorney; professional planner; engineer; architect; land surveyor; environmental, traffic, marketing, and economic development experts.
 - 2. The complexity of reviewing the application requires an abnormal amount of additional time by the zoning administrator or other staff.
 - 3. The complexity or controversy of the application results in the Reviewing Body being in session (holding meetings, reconvened meetings, hearings) that is more than two times on the application, or holding any special meeting on the application.
 - 4. The additional review of the application is exclusively for the proposed development, and if not then the additional fee shall reflect the proportion amount for the proposed development and other items.

- B. Upon adoption of the motion requiring additional fees, review of the application shall stop until the applicant has paid a minimum additional fee of \$1,000.00 dollars. The fee shall be deposited with the Treasurer who shall keep an accurate accounting of the funds in a separate fund. If the applicant does not deposit the required amount, no further action on the application shall be taken and it will be deemed denied without prejudice under Section 3.D of this Ordinance.

- C. The Reviewing Body shall use the additional fee to contact and select necessary experts, receive a work proposal and estimate from the experts on their fees and costs for the application, and for the services of the expert(s).

- D. At the next meeting of the Reviewing Body, the Reviewing Body, or prior to the next meeting of the Reviewing Body, the zoning administrator or other staff in consultation with the Chair of the Reviewing Body, shall:
 - 1. Establish a budget for the services of the expert(s), meeting costs, zoning administration, and other expenses;

2. Send an invoice to the applicant for the remaining budgeted amount, with an explanation that the applicant shall provide the Reviewing Body within ten days, in writing, that
 - a. the application will be withdrawn, or
 - b. desires to proceed and pays the balance of the additional fees based on the budget within the ten days.
 3. The fee shall be deposited with the Treasurer who shall keep an accurate accounting of the funds. If the applicant does not deposit the required amount, no further action on the application shall be taken and it will be deemed denied without prejudice under Section 3.D of this Ordinance.
- E. Any additional actual costs incurred in processing such application shall be paid before a permit is issued, and may be required to be payable in increments as review of the application progresses. The additional costs shall be for no more than the actual cost (so not additional revenue is generated) of processing the application. No part of such actual cost shall be returnable to the applicant. If there are any remaining monies in the account upon conclusion of the application, those monies shall be returned to the applicant.
- F. The deposit required by this section is in addition to any security required elsewhere in this Ordinance.

Section 5. Estimated Costs

- A. If it is determined by any Reviewing Body that the fees imposed pursuant to its adopted Suttons Bay Township Fee Schedule will not be adequate to offset the actual costs to the Township of administering the applicable ordinances and regulations, the Township may require the applicant to pay such additional fees. Such additional fees may be determined by the Township based upon actual costs incurred, or as estimated based upon similar administrative action undertaken by the Township, or as estimated based upon costs incurred by other townships in similar proceedings. Additional fees will be billed to the applicant monthly, and shall be paid by the applicant before any further action is taken by the Township in consideration of the application.
- B. If the costs are estimated by the Township to be in excess of \$1,500.00 the estimated fees shall be paid by the applicant, placed in escrow by the Township, and used solely to pay for costs incurred by the Township as a result of the application. The Township shall bill the applicant monthly for the estimated costs, in an amount sufficient to maintain a minimum escrow balance of \$1,000.00 for a period of 45 days or longer as a result of the applicant's failure to make timely payment to the Township. The Township may cease any further proceedings relating to the application. The Township Clerk shall give a written notice to an applicant when the applicant has failed for 35 days to restore the escrow balance

to \$1,000.00 or more that, unless the escrow balance is restored within 10 days, the Township may cease any further proceedings relating to the application.

- C. If, as a result of the preceding paragraph, the Township ceases proceedings relating to the application, the applicant shall pay to the Township a re-application fee of \$250.00, and shall restore the escrow balance to a minimum of \$1,500.00 before the Township undertakes any further proceedings on the application.
- D. If, at the conclusion of the Township proceedings on the application, any funds remain in the escrow account after payment of all the expenses and fees, the remaining funds shall be paid to the applicant. The Township shall not issue any permits to the applicant until such time as all costs have been paid, or until the Township Board determines there are sufficient funds in the escrow account to pay all outstanding costs.

Section 6. Financial Assurances

- A. The Township may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the Township covering the estimated cost of improvements associated with a project for which site plan approval is sought to be deposited with the Township Clerk to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The Township may not require the deposit of the performance guarantee prior to the time when the Township is prepared to issue the permit.
- B. Pursuant to Section 182 of the Subdivision Control Act (MCL 560.182; MSA 26.430(182)), the Township may require as a condition of approval of a final plat, for all public and private streets, alleys and roads in the Township, a deposit by the applicant with the Township in the form of cash, certified check or irrevocable bank letter of credit, whichever the applicant selects, or a surety bond acceptable to the Township, in an amount sufficient to insure completion within the time specified. The Township may also condition approval of the plat upon such a deposit by the applicant to insure performance by the applicant of any obligations to make required improvements imposed upon the applicant.
- C. Pursuant to Section 188 of the Subdivision Control Act (MCL 560.188; MSA 26.430(188)), if a proposed subdivision includes or abuts certain improvements other than streets and alleys, such as county drains, lagoons, slips, waterways, lakes, bays or canals, which connect with or are proposed to connect with or enlarge public waters and such improvements are not in existence at the time of consideration by the Township, the Township may require, as a condition of approval of the final plat, the applicant to enter into an agreement to construct such improvements within a reasonable time. To insure the faithful performance of such an agreement, the Township may require a cash deposit, certified check, or irrevocable bank letter of credit, whichever the applicant selects, or a surety

bond acceptable to the Township, covering the estimated cost of construction, to be deposited with the Township Clerk.

- D. As used in this subsection, “improvements” means those features and actions associated with a project which are considered necessary by the body or official granting zoning approval, to protect natural resources, or the health, safety, and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, including (but not limited to) roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements does not include the entire project which is the subject of zoning approval.
- E. In determining the amount necessary to insure faithful completion of the improvements, the Township Board may hire professional consultants to advise the Board on the estimated cost of improvements.
- F. The Township shall rebate to the applicant, as the work progresses, amounts of any cash deposits equal to the ratio of the work completed to the entire project.
- G. All costs incurred by the Township in regard to determining the appropriate guarantees to be required of the applicant shall be considered costs of the application, and charged to the applicant, pursuant to Section 5 of this Ordinance.

Section 7. Acknowledgement of Ordinance Requirement

For all projects requiring review by a Reviewing Body, no review shall be undertaken until the Zoning Administrator has received the following statement, bearing the notarized signature of each applicant or project principal:

“We, the undersigned, acknowledge receipt of Suttons Bay Township Ordinance No. _____ of 2017, Permit Fees and Guarantees Ordinance. We further agree to abide by any and all requirements of said Ordinance, including but not limited to payment of all applicable fees and costs, and providing adequate financial assurances.”

Section 8. Fee Waivers

OPTION 1: On a case-by-case basis the Township Board may wave part or all or any fee if the applicant is found to be indigent, a local government, or a non-profit organization.

OPTION 2: On a case-by-case basis the Township Board may wave part or all or any fee when it is in the best interest of the Township.

Section 9. Previous Ordinances Rescinded

All previous Suttons Bay Township Permit Fees and Guarantees for Zoning and Land Use Requests Ordinances and other Fee Ordinances are hereby rescinded and replaced by this Ordinance.

Section 10. Severability.

If any section, clause, or provision of this Ordinance is declared unconstitutional or otherwise invalid by a court of competent jurisdiction, said declaration shall not affect the validity of the remainder of the Ordinance as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 11. Effective Date: August 25, 2017

This Ordinance shall become effective one (1) day after being published in a newspaper of general circulation within the township.

Ordinance No. 6 of 2017 was adopted on the 9th day of August 2017 by the Suttons Bay Township Board of Trustees, as follows:

Motion by:	Bahle
Support by:	Hartesvelt
Roll Call Vote:	
Yeas:	Nixon, VanHuystee, Bahle, Slocombe, Hartesvelt
Nays:	None
Absent:	None
Motion Carried.	

I certify that this true copy of Ordinance No. 6 of 2017 was adopted at a regular meeting of the Suttons Bay Township Board of Trustees on August 9, 2017 and published in the *Leelanau Enterprise* on August 24, 2017.

Date of Township Approval:	August 9, 2017
Date of Publication:	August 24, 2017
Effective Date:	August 25, 2017

Date: _____

By: _____
Sandra VanHuystee,
Suttons Bay Township Clerk