

ORDINANCE NO. OR17-07

AN ORDINANCE AMENDING THE MUNICIPAL CODE CHAPTER 14, BUILDINGS AND BUILDING REGULATIONS, ARTICLE II, ADMINISTRATION AND ENFORCEMENT, DIVISION 3, PERMITS AND PLANS, CREATING SECTION 14-129, RECOVERY OF CITY COSTS AND EXPENSES IN THE CITY OF BRILLION, CALUMET COUNTY, WISCONSIN

The Common Council of the City of Brillion do ordain as follows:

SECTION I: Chapter 14, Buildings and Building Regulations, Article II, Administration and Enforcement, Division 3, Permits and Plans, Section 14-129 is hereby created as follows:

Sec. 14-129 Recovery of City Costs and Expenses

- (a) *General Provision.* In addition to any other fees required to be paid in conjunction with the filing of an application for a permit under Section 14-127 or 14-128, the person, partnership or entity applying for such permit (hereinafter "Applicant") shall compensate the City for all costs and expenses the City incurs in the consideration of the Applicant's application. The obligation to compensate the City for its costs and expenses shall also extend to presubmission discussions with the City or its representatives which precede an application to the City, if any.
- (b) *Applicant Certification.* Before the City shall incur any costs or expense in consideration of any application as described in this ordinance, the Applicant shall sign an acknowledgment and certificate on a form to be made available by the City Clerk stating the Applicant's responsibility for all City costs and expenses directly or indirectly related to the Applicant's application. The original of said acknowledgment and certificate shall be kept on file with the City Clerk. A copy shall be given to the Applicant at the time of signing.
- (c) *Costs Recoverable.* All costs incurred by the City in the consideration of any application by an Applicant for a permit under Section 14-127 or 14-128 shall be recoverable, including, without limitation by enumeration, the following:
1. All professional and technical consultant services and fees retained by the City and rendered in review of the application, including, but not limited to, the City Engineer, City Attorney or any other professional or expert hired by the City for purposes of review of the application or presubmission request,
 2. Legal publication costs.
 3. Court reporter costs, as deemed necessary by the City.
 4. Copy reproduction.
 5. Postage
 6. Telephone charges.
 7. Fees and costs incurred by the City Building Inspector.
 8. Document Recordation (if required).
 9. All professional services costs, particularly noted in subsection 1) above shall be surcharged by 5% to cover administrative related costs of the City.
 10. Any other cost or expense incurred by the City.

- (d) *Billing of Costs.* The City Treasurer shall, on a monthly basis, bill all costs recoverable pursuant to this ordinance to the Applicant, which said costs shall be paid by Applicant within 30 days of receipt of the City’s billing. The City Zoning Administrator or City Administrator may at any time require an Applicant to submit an advance deposit of \$500 to \$5000 depending upon the complexity and anticipated involvement of the City’s consultants or continuing advance deposits against future billings by the City for the recovery of costs provided by this ordinance. An advanced deposit shall be required for applications related to extraterritorial matters. Surplus deposits shall be returned to the Applicant at the conclusion of the project if such deposits exceed the amount of billings for recoverable costs. Any billed costs from the City unpaid at the expiration of said 30 day period shall bear interest at the rate of 10% per annum.
- (e) *Condition of All Applications.* Notwithstanding anything in this Code to the contrary, payment in full of all recoverable costs pursuant to this ordinance shall be a precondition to the final approval of any application for a permit under Section 14-127 or 14-128. This precondition shall extend to any Council request for an advance deposit against future billings for recoverable costs as called for herein.
- (f) *Enforcement.* In addition to any provision for enforcement contained in this Code, in the event the City is not paid billed recoverable costs as called for herein, the City shall be entitled to recover all actual attorney fees, litigation expenses, witness fees, filing fees, expert witness fees and all other costs or expenses incurred by the City in the prosecution of a violation of this ordinance, regardless of whether the City prevails in such prosecution or not, or whether an action is filed or not.
- (g) *Severability.* In the event any section, clause, paragraph, or phrase of this ordinance is deemed to be wholly or partially unenforceable by a court of law in a competent jurisdiction, the remaining sections of the ordinance shall remain in full force and effect.

SECTION II: This ordinance shall take effect upon passage and publication as required by law.

Ordinance Number OR17-07 introduced and its adoption moved by Alderperson Levash; and seconded by Alderperson Hanson.

Upon a pole vote thereon, the result was as follows:

<u>5</u>	Votes Cast
<u>5</u>	Votes Yes
<u>0</u>	Votes No

The Mayor declared Ordinance Number OR17-07 adopted, approved and signed the same this 23rd day of October, 2017.

Gary Deiter
Mayor

Attested:

Lori M. Gosz, CMC
City Administrator/Clerk-Treasurer