

**BRIDGEWATER TOWNSHIP
RICE COUNTY
STATE OF MINNESOTA**

ORDINANCE NO. 2023-03

**AN ORDINANCE ESTABLISHING CERTAIN PROCEDURES
IN RELATION TO REIMBURSEMENT TO BRIDGEWATER TOWNSHIP
FOR FEES INCURRED FOR THIRD PARTY CONSULTANTS
RELATING TO LAND USE MATTERS**

FINDINGS

THE BOARD OF SUPERVISORS OF BRIDGEWATER TOWNSHIP, RICE COUNTY, MINNESOTA, MAKES THE FOLLOWING SPECIFIC FINDINGS:

- A. The Township regularly receives inquiries from property owners, real estate professionals, developers and proposed purchasers (“Requesting Parties” or each a “Requesting Party”) in relation to Town requirements and procedures for annexation, land use planning, amendments to the Town’s comprehensive plan, land subdivision, zoning, land development, environmental review and other land use issues arising out of or related to the zoning ordinance and subdivision regulations of the Town.
- B. The Town also regularly receives requests from property owners for various land use matters including, but not limited to, variances, conditional use permits and minor subdivisions. (The issues referred to in Section A above and this Section B are collectively “Land Use Matters.”)
- C. The Town desires to be appropriately responsive to requests for information and applications concerning Land Use Matters but recognizes that a significant amount of Town staff and Town consultant time is required by such requests, all of which places a strain on the limited resources, both personnel and economic, of the Town.
- D. The Town is committed to creating a balance between the need to provide general background information to Requesting Parties concerning Land Use Matters and the Town’s policy that the cost of development in general, and Land Use Matters relating to specific parcels in particular, and the costs incurred by the Town in processing information requests and applications thereto should be self-sustaining and not a cost to the Town and its taxpayers.

BASED ON THESE FINDINGS, THE BOARD OF SUPERVISORS OF BRIDGEWATER TOWNSHIP, RICE COUNTY, MINNESOTA, DOES ORDAIN AS FOLLOWS:

1. Initial Consultation. Any Requesting Party may schedule one virtual or telephone meeting with the Town's planning consultant relating to general background as to Land Use Matters for a particular parcel of property within the corporate limits of the Town or its environs without charge to the Requesting Party (the "Initial Consultation"). The meeting will be scheduled at the reasonable convenience of the Town's planning consultant. The Town will only permit one Initial Consultation per Requesting Party or for a particular parcel of real property within a calendar year unless multiple unaffiliated parties request an Initial Consultation for a particular parcel of property. The length of the Initial Consultation shall not exceed 2 hours. The Town will not seek reimbursement from the Requesting Party for Town staff and Town consultant expenses incurred by the Town for the Initial Consultation.
2. Subsequent Meetings and Review Prior to Application. Additional requests to the Town third party consultants for information, analysis, review and assistance relating to Land Use Matters by Requesting Parties arising out of or after the Initial Consultation shall be responded to within a reasonable time provided the Requesting Party agrees to reimburse the Town for amounts the Town is invoiced by its third party consultants to provide such information and services. Town staff and/or the planning consultant shall determine a reasonable estimate of the Town consultant fees likely to be incurred by the Town in responding to and analyzing the request of the Requesting Party, and the Requesting Party shall deposit the amount of the estimated fees with the Town Clerk as payment for the services provided or to be provided by the Town third party consultants. If, at any time, it appears to Town staff or the Town's planning consultant that the amount of security held by the Town is inadequate to defray Town third party consultants costs actually incurred or reasonably anticipated to be incurred in responding to the request, a new estimate shall be determined and the Requesting Party must deposit additional amounts to defray the difference between the original estimate and the revised estimate.
3. Preapplication Complex Project Review and Environmental Review. If (i) because of the size, scope, density or topography related to a particular development proposal, the Town determines that the proposal is complex, or (ii) in a situation where the Requesting Party proposes or the Town determines it is advisable that the preparation of an environmental assessment worksheet, an environmental impact statement or an Alternative Urban Areawide Review be prepared, the Requesting Party shall enter into a cost reimbursement agreement as defined in Subdivision 7 herein and shall provide the financial security required by Subdivision 7 herein as a condition precedent to the Town

undertaking any work to review the proposal or commence the environmental review.

4. Application Requirements. The Requesting Party shall reimburse the Town for all third party consulting fees incurred by the Town in relation to the review and processing of the Requesting Party's application(s) in relation to Land Use Matters. All applications related to Land Use Matters shall be accompanied by a cost reimbursement agreement as defined in Subdivision 7 herein and financial security in the manner set forth herein:
 - a. For applications relating to a request for a variance, conditional use permit, rezoning or zoning ordinance amendment for a single platted lot or, if not platted, a parcel with a land area of less than 2 acres, the cost reimbursement agreement shall be a separate provision included within the application, and the financial security (cash deposit or letter of credit) for Town consultant fees (which is in addition to any application fees) listed in the Town's fee schedule, subject to revision and increase if Town staff or the Town's planning consultant determines that additional security is reasonably necessary. If the actual costs for Town consultant fees is less than any cash deposit, the surplus shall be refunded to the Requesting Party and any shortfall shall be invoiced to and paid by the Requesting Party.
 - b. For all other applications, the requesting party must execute the Town's cost reimbursement agreement and deliver the same to the Town together with the escrow amount determined by staff in cash, or provide to the Town a letter of credit in such amount issued by a bank capable of being drawn upon at a location within 100 miles of the Town, in a form acceptable to the Town attorney.
 - c. The failure to provide both the cost reimbursement agreement and financial security required in this section shall make the application submitted incomplete pursuant to MINN. STAT. § 15.99, and the Town shall not be required to review and process such application until the requirements of this section are satisfied.
 - d. The Town attorney shall provide the form of cost reimbursement agreement for use in conjunction with this section. Any change to the form cost reimbursement agreement must be approved by the Town attorney.
5. Billing. The Town Clerk shall compile the invoices from the Town third party consultants and, no less frequently than once every 90 days, shall submit a statement and the supporting invoices to the Requesting Party for payment. All third party consultant invoices to the Town shall be segregated for specific

Land Use Matters for a Requesting Party. The Requesting Party shall pay the statement within 15 days.

- 6. Objections to billed amounts. If the Requesting Party disputes the fees of the Town’s third party consultants, the Requesting Party shall submit a written objection to the fees to the Town Clerk within 15 days of the receipt of the statement from the Town Clerk. Concurrent with submission of the objection to the fees, the Requesting Party must pay the disputed fees to the Town Clerk with instructions to the Town Clerk to place the disputed fees into a separate escrow account. The Requesting Party shall first meet with the Town Clerk and the applicable Town third party consultants in an attempt to informally resolve the dispute as to the fees. If the fee dispute is not resolved in this manner, the Requesting Party may have the matter heard by the Town Board. If the fees dispute is not resolved to the satisfaction of the Requesting Party either informally or by the Town Board, the Requesting Party may assert any appeal rights pursuant to MINN. STAT. § 462.361 and MINN. STAT. § 462.353, Subd. 4(d). The Town shall not condition the approval of any Requesting Party’s proposed subdivision or development on an agreement to waive the right to challenge the validity of the fees set forth in this section.

- 7. Accounting Procedures and Controls. The fees collected pursuant to this section shall be used solely for the purpose of reimbursing the Town for expenses incurred by the Town for its third party consultants in relation to the reviewing and processing of requests and applications as to Land Use Matters by a particular Requesting Party. The Town shall not use fees collected pursuant to this section from one Requesting Party in relation to a particular Land Use Matter for any purpose other than defraying costs incurred by the Town for the use of the services of its third party consultants in relation to the particular Land Use Matter.

This Ordinance shall be in force and effect on _____, 2023, after adoption and publication in the official newspaper of Bridgewater Township in accordance with applicable law.

Passed and adopted by the Board of Supervisors of Bridgewater Township on the ____ day of _____, 2023.

Glen Castore, Chair

ATTEST:

Lori Noreen, Town Clerk