



*City Council Memorandum*

**To:** Mayor Fasbender & City Councilmembers  
**From:** John Hinzman, Community Development Director  
**Date:** April 17, 2023  
**Item:** Ordinance Amendment – Escrows and Fees

**Council Action Requested:**

Consider the following actions amending the Hastings City Code pertaining to escrows and fees:

- 1) Hold a public hearing, consider 2<sup>nd</sup> reading\ordinance adoption: City Code Chapter 34.03 - Fees
- 2) Hold a public hearing, consider 2<sup>nd</sup> reading\ordinance adoption: City Code Chapter 154 – Subdivision Ordinance
- 3) Consider 2<sup>nd</sup> reading\ordinance adoption: City Code Chapter 155 – Zoning Ordinance (public hearing held at Planning Commission)

The City Council considered 1<sup>st</sup> reading of the above actions at the April 3, 2023 meeting. A simple majority is necessary for action.

**Background:**

The amendments accomplish the following:

- Delete specific fees in each code with Chapters 154 and 155. All fees are already included in Chapter 34.03.
- Establish more specific requirements for escrows including use and replenishment of funds, final payments and return of unused funds to the applicant.
- Establish a uniform \$5,000 escrow for annexation, environmental assessment, site plan, and preliminary plat actions.

**Financial Impact:**

Adoption of the amendment would better ensure the payment of development related expenses by the applicant.

**Advisory Commission Discussion:**

The Planning Commission reviewed changes to Chapter 154 and 155 at the March 27, 2023 meeting with limited discussion. No one from the public spoke during the public hearing.

**Council Committee Discussion:**

N/A

**Attachments:**

- Ordinance Amendment – Chapter 34.03
- Ordinance Amendment – Chapter 154
- Ordinance Amendment – Chapter 155
- Planning Commission Staff Report – March 27, 2023

**ORDINANCE NO. 2023-**

**AN ORDINANCE FOR THE CITY OF HASTINGS, MINNESOTA AMENDING  
HASTINGS CITY CODE CHAPTER 34.03 – FEES SCHEDULE REGARDING  
ESCROWS**

The City Council of the City of Hastings, Minnesota does hereby ordain as follows:

**SECTION 1. AMENDMENT.** The Code of the City of Hastings, State of Minnesota, Chapter 34, Section 34.03, Fee Schedule shall be amended as follows with language added being underlined and language deleted being ~~stricken~~:

**34.03 FEE SCHEDULE  
Community Development**

Annexation	\$500 + <del>\$3,000</del> <u>5,000</u> escrow
Environmental Assessment	\$500 + <del>\$3,000</del> <u>5,000</u> escrow
<b>Site Plan</b>	
<b>Residential</b>	<del>\$500 + escrow</del>
<del>8 units or less</del>	<del>\$2000.00</del>
<del>9-40 units</del>	<del>\$3,250.00</del>
<del>41 + units</del>	<del>\$4,500 based on building square footage</del>
<b>Site Plan</b>	
<b>Commercial</b>	<del>\$500 + escrow</del>
<del>0-5000 SF</del>	<del>\$2000.00</del>
<del>5001-10,000 SF</del>	<del>\$3,000.00</del>
<del>10,001 – 50,000 SF</del>	<del>\$3,750.00</del>
<del>50,001 + SF</del>	<del>\$4,500.00</del>
<u>Site Plan</u>	<u>\$500.00 + \$5,000 escrow</u>
<b>Preliminary Plat</b>	<del>\$500 + escrow</del>
<del>Under 10 acres</del>	<del>\$3,500.00</del>
<del>10 + acres</del>	<del>\$6,500.00</del>
<b>Preliminary Plat</b>	<u>\$500.00 + \$5,000 escrow</u>

**SECTION 2. SUMMARY PUBLICATION.** Pursuant to Minnesota Statutes 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The text amendment adopted by the Hastings City Council on April 17, 2023 modifies the City Fee Schedule pertaining to Community Development escrows.

**SECTION 5. EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this 17<sup>th</sup> day of April, 2023

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Mary Fasbender, Mayor

Attest:

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Kelly Murtaugh, City Clerk

Published in the Hastings Journal on April 20, 2023

**ORDINANCE NO. 2023-**

**AN ORDINANCE FOR THE CITY OF HASTINGS, MINNESOTA AMENDING  
HASTINGS CITY CODE CHAPTER 154 – SUBDIVISION ORDINANCE REGARDING  
ESCROWS AND FEES**

The City Council of the City of Hastings, Minnesota does hereby ordain as follows:

**SECTION 1. AMENDMENT.** The Code of the City of Hastings, State of Minnesota, Chapter 154, Section 154.11, Fees shall be stricken in its entirety and replaced with the following language:

**154.11 Fees**

- A. **Generally.** The fees to be paid for each application shall be as prescribed in City Code Chapter 34.03. They are reviewed annually by the City Council. Fees shall be payable at the time applications are filed with the Community Development Director and are not refundable unless application is withdrawn prior to legal publication and notice. There shall be no fee in the case of applications filed in the public interest by City Council or by the Planning Commission. Fees shall include application fees, filing fees, consultant, legal, planning and engineering fees and/or escrow fees. Fees for actions not prescribed in City Code Chapter 34.03 may be levied by the city provided they are fair, reasonable, and proportionate and have a nexus to the actual cost of the service for which the fee is imposed.
  
- B. **Escrow Payment.** Certain applications require payment of an escrow as stipulated in City Code Chapter 34.03. The escrow fee shall be used to pay any outside expenses and fees incurred by the City, including, but not limited to consultants, attorneys, planning and engineering fees or other expenses due to the application. If, at any time, the balance in the cash escrow account is depleted to less than ten percent (10%) of the originally required cash escrow amount, the applicant shall deposit additional funds in the cash escrow account as determined by the Community Development Director. All expenses and fees in excess of the escrow deposit, shall be paid by the applicant to the City within thirty (30) days of final action on the matter by the City. If not paid within thirty (30) days, the account shall be deemed delinquent. Any balance remaining in the cash escrow account upon completion of the process shall be returned to the applicant after all expenses and fees thereto have been deducted, following final action by the City in the matter.

**SECTION 2. SUMMARY PUBLICATION.** Pursuant to Minnesota Statutes 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The text amendment adopted by the Hastings City Council on April 17, 2023 modifies the City Ordinance to regulate the collection of fees and escrows.

**SECTION 3. EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this 17<sup>th</sup> day of April, 2023

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Mary Fasbender, Mayor

Attest:

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Kelly Murtaugh, City Clerk

Published in the Hastings Journal on April 20, 2023

**ORDINANCE NO. 2023-**

**AN ORDINANCE FOR THE CITY OF HASTINGS, MINNESOTA AMENDING  
HASTINGS CITY CODE CHAPTER 155 – ZONING ORDINANCE REGARDING  
ESCROWS AND FEES**

The City Council of the City of Hastings, Minnesota does hereby ordain as follows:

**SECTION 1. AMENDMENT.** The Code of the City of Hastings, State of Minnesota, Chapter 155, Section 155.59, Zoning Fees shall be stricken in its entirety and replaced with the following language:

**155.59 Fees**

- A. **Generally.** The fees to be paid for each application shall be as prescribed in City Code Chapter 34.03. They are reviewed annually by the City Council. Fees shall be payable at the time applications are filed with the Community Development Director and are not refundable unless application is withdrawn prior to legal publication and notice. There shall be no fee in the case of applications filed in the public interest by City Council or by the Planning Commission. Fees shall include application fees, filing fees, consultant, legal, planning and engineering fees and/or escrow fees. Fees for actions not prescribed in City Code Chapter 34.03 may be levied by the city provided they are fair, reasonable, and proportionate and have a nexus to the actual cost of the service for which the fee is imposed.
  
- B. **Escrow Payment.** Certain applications require payment of an escrow as stipulated in City Code Chapter 34.03. The escrow fee shall be used to pay any outside expenses and fees incurred by the City, including, but not limited to consultants, attorneys, planning and engineering fees or other expenses due to the application. If, at any time, the balance in the cash escrow account is depleted to less than ten percent (10%) of the originally required cash escrow amount, the applicant shall deposit additional funds in the cash escrow account as determined by the Community Development Director. All expenses and fees in excess of the escrow deposit, shall be paid by the applicant to the City within thirty (30) days of final action on the matter by the City. If not paid within thirty (30) days, the account shall be deemed delinquent. Any balance remaining in the cash escrow account upon completion of the process shall be returned to the applicant after all expenses and fees thereto have been deducted, following final action by the City in the matter.

**SECTION 2. SUMMARY PUBLICATION.** Pursuant to Minnesota Statutes 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The text amendment adopted by the Hastings City Council on April 17, 2023 modifies the City Ordinance to regulate the collection of fees and escrows.

**SECTION 3. EFFECTIVE DATE.** This ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this 17th day of April, 2023

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Mary Fasbender, Mayor

Attest:

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Kelly Murtaugh, City Clerk

Published in the Hastings Journal on April 20, 2023





### *Planning Commission Memorandum*

**To: Planning Commissioners**

**From: John Hinzman, Community Development Director**

**Date: March 27, 2023**

**Item: REVISED - Public Hearing - Amend City Code Chapters 154 and 155 – Escrows and Fees**

#### **Planning Commission Action Requested**

Hold a public hearing and recommend action to amend City Code Chapter 154 – Subdivision and Chapter 155 – Zoning Code pertaining to escrows and fees. The public hearing notice officially would only be for Chapter 155 only, with the public hearing for Chapter 154 being held during the 2<sup>nd</sup> reading at City Council. This is due to the Planning Commission public hearing notice not referencing the amendment to Chapter 154. The amendments to both chapters are identical.

#### **Purpose**

The amendments accomplish the following:

- Delete specific fees in each code; the City fees are already referenced in Chapter 34.03 – Fees (along with all other City fees).
- Establish more specific requirements for escrows including use and replenishment of funds, final payments and return of unused funds to the applicant.

#### **Escrows**

Escrows are established for certain land use applications in which the total cost for review vary greatly from application to application. They include both Preliminary Plats and Site Plans. The purpose of an escrow is to require the applicant to reimburse the City for staff review and consultant costs related to review of the application. Any funds remaining at the end of a project are reimbursed back to the applicant.

#### **Recommendation**

Approval of the proposed ordinance is recommended.

#### **Attachment**

- Ordinance Amendment – Chapter 154 – Subdivision
- Ordinance Amendment – Chapter 155 - Zoning

**ORDINANCE NO. 2023-**

**AN ORDINANCE FOR THE CITY OF HASTINGS, MINNESOTA AMENDING  
HASTINGS CITY CODE CHAPTER 154 – SUBDIVISION ORDINANCE REGARDING  
ESCROWS AND FEES**

The City Council of the City of Hastings, Minnesota does hereby ordain as follows:

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**154.11 Fees**

- A. **Generally.** The fees to be paid for each application shall be as prescribed in City Code Chapter 34.03. They are reviewed annually by the City Council. Fees shall be payable at the time applications are filed with the Community Development Director and are not refundable unless application is withdrawn prior to legal publication and notice. There shall be no fee in the case of applications filed in the public interest by City Council or by the Planning Commission. Fees shall include application fees, filing fees, consultant, legal, planning and engineering fees and/or escrow fees. Fees for actions not prescribed in City Code Chapter 34.03 may be levied by the city provided they are fair, reasonable, and proportionate and have a nexus to the actual cost of the service for which the fee is imposed.
  
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Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2023

\_\_\_\_\_  
Mary Fasbender, Mayor

Attest:

\_\_\_\_\_  
Kelly Murtaugh, City Clerk

Published in the Hastings Journal on \_\_\_\_\_

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Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2023

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Mary Fasbender, Mayor

Attest:

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Kelly Murtaugh, City Clerk

Published in the Hastings Journal on \_\_\_\_\_