

ORDINANCE NO.
PRESCRIBING THE ENGAGEMENT OF EXPERTS BY
THE LAND USE BUREAU CHIEF OR
THE LAND USE BOARDS

WHEREAS, Connecticut General Statutes, Section 8-1c provides that: “Any municipality may, by ordinance, establish a schedule of reasonable fees for the processing of applications by a municipal zoning commission, planning commission, zoning board of appeals or inland wetlands commission. Such schedule shall supersede any specific fees set forth in the general statutes, or any special act;” and

WHEREAS, Section 8-1c has been construed in Pollio v. Planning Commission, 232 Conn. 44 (1995) to permit a municipality to charge as part of the application fees the reasonable cost of both preapproval and postapproval technical review; and

WHEREAS, the land use boards do not always have sufficient “in house” expertise available to them, nor is it economically feasible for the City to provide “in house” an array of experts to review applications that are presented to them; and

WHEREAS, it may be reasonably necessary, based upon the subject matter, complexity and/or scope of a particular application, for a land use board to retain the services of an independent outside expert or experts with relevant technical knowledge to assist the board in reviewing an application; and

WHEREAS, the cost incurred to retain such an expert should be borne by the applicant as part of the application fee.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF STAMFORD that Chapter 123, Fees, Article VII is appended as follows:

Sec. 123-11. Determination by Land Use Bureau Chief of Need for Outside Expert.

In order to promote a balanced, objective, and transparent review of land use applications, the Land Use Bureau Chief, or his designee, may determine that ~~an~~ one or more outside experts is needed to analyze, review and report on areas requiring technical review in order to assist the Planning Board, Zoning Board, Zoning Board of Appeals and/or the Environmental Protection Board. This determination shall be based upon the size, complexity or scope of the application. Such experts may include, but shall not be limited to, engineers, surveyors, architects, soil scientists, wetland biologists, wildlife biologists, and hydrogeologists.

Sec. 123-12. Assessment of Reasonable Cost of Expert as Part of Application Fee.

The Land Use Bureau Chief may assess the reasonable cost to retain such an expert to the applicant based upon a preliminary estimate of the cost provided by the

expert. The Land Use Bureau Chief may collect 125% of the estimated cost from the applicant, which amount shall be held in escrow until the technical review is completed, and which will be the outside limit of the applicant's responsibility. This cost shall be considered an integral component of the application fee. The failure by the applicant to pay this cost within five (5) days of notice of the fee assessment shall render the application incomplete.

Sec. 123-13. Determination by Land Use Boards of Need for Outside Expert

In the event the Land Use Bureau Chief does not determine that ~~an~~ one or more outside experts is needed, the Planning Board, Zoning Board, Zoning Board of Appeals and/or the Environmental Protection Board may nonetheless make such a determination within a reasonable time after the commencement of public hearing on the application. Before assessing the applicant the cost of retaining an independent outside expert, the board shall determine that the evidence in the record or likely to be produced requires the hiring of such an expert to assist the board, that the City does not have the "in house" expertise needed to perform the required technical review, and that adequate time exists for the applicant to review and respond to such expert's report. The board shall then make such a reasonable assessment and collect 125% of the estimate from the applicant, which amount shall be held in escrow until the technical review is completed and which will be the outside limit of the applicant's responsibility.

Sec. 123-14. Refund of Amounts Collected Over Actual Cost

Any excess amount collected over the actual cost shall be refunded to the applicant.

Sec. 123-15. Failure to Pay Assessment

This payment shall be considered an integral component of the application fee. The failure by the applicant to pay this cost within five (5) days of notice of the fee assessment shall render the application incomplete.