

**Community Planning and Economic Development Planning Division Report
Zoning Code Text Amendment**

Date: February 21, 2012

Initiator of Amendment: Council Member Schiff

Date of Introduction at City Council: January 5, 2012

Specific Site: Citywide

Ward: Citywide **Neighborhood Organization:** Citywide

Planning Staff and Phone: Kimberly Holien, (612) 673-2402

Intent of the Ordinance: To amend the fee schedule for land use applications and subdivisions in recognition of the costs of services performed and work and materials furnished.

Appropriate Section(s) of the Zoning Code: Chapter 525, Administration and Enforcement; Chapter 598, Land Subdivision.

Background: The City last examined and adjusted its land use application fees in 2011. When evaluating the 2012 Operating Budget, the City Council made an amendment that recommended an increase in land use application, subdivision and re-inspection fees. Specifically, a footnote on the adopted budget states, *“Fees for land use applications will be subject to a 3.5% (consumer price index bureau of labor statistic inflation rate) increase for 2012. Zoning re-inspection fees will be increased from \$150 to \$200.”*

Staff has prepared an amendment to increase the land use, subdivision and re-inspection fees accordingly. Staff has rounded the fees from the recommended 3.5 percent increase where appropriate to result in whole numbers.

Legal context:

The City’s zoning fees are administered within the context of state statute 462.353, subd. 4, which states the following:

“Fees. (a) A municipality may prescribe fees sufficient to defray the costs incurred by it in reviewing, investigating, and administering an application for an amendment to an official control established pursuant to sections [462.351](#) to [462.364](#) or an application for a permit or other approval required under an official control established pursuant to those sections. Except as provided in subdivision 4a, fees as prescribed must be by ordinance. Fees must be fair, reasonable, and proportionate and have a nexus to the actual cost of the service for which the fee is imposed.

(b) A municipality must adopt management and accounting procedures to ensure that fees are maintained and used only for the purpose for which they are collected. Upon request, a municipality must explain the basis of its fees.

(c) Except as provided in this paragraph, a fee ordinance or amendment to a fee ordinance is effective January 1 after its adoption. A municipality may adopt a fee ordinance or an amendment to a fee ordinance with an effective date other than the next January 1, but the ordinance or amendment does not apply if an application for final approval has been submitted to the municipality.

(d) If a dispute arises over a specific fee imposed by a municipality related to a specific application, the person aggrieved by the fee may appeal under section [462.361](#), provided that the appeal must be brought within 60 days after approval of an application under this section and deposit of the fee into escrow. A municipality must not condition the approval of any proposed subdivision or development on an agreement to waive the right to challenge the validity of a fee. An approved application may proceed as if the fee had been paid, pending a decision on the appeal. This paragraph must not be construed to preclude the municipality from conditioning approval of any proposed subdivision or development on an agreement to waive a challenge to the cost associated with municipally installed improvements of the type described in section [429.021](#).”

Purpose for the Amendment:

What is the reason for the amendment?

What problem is the Amendment designed to solve?

What public purpose will be served by the amendment?

What problems might the amendment create?

The amendment would adjust current zoning application fees in recognition of the inflation rate from 2011 to 2012. In part, the amendment also adjusts fees in accordance with the cost of services performed and materials furnished.

The problem that the amendment is trying to eliminate is to reduce the gap between the cost of providing services and the costs recovered through application fees. Upon adoption and publication of the staff recommendation, fees would cover a higher percentage of the cost of providing services to applicants.

Among the public purposes served by the amendment, the adjusted fees would allow the City to continue to ensure that new development and redevelopment meets public objectives while recovering the cost of the review from the direct user of the respective permits.

Staff does not expect that the amendment would create significant problems. Although increased fees will affect some applicants that may have limited resources, the fee increases are at a flat rate of 3.5 percent, in line with the rate of inflation.

Timeliness:

Is the amendment timely?

Is the amendment consistent with practices in surrounding areas?

Are there consequences in denying this amendment?

The amendment is timely given that the City Council directed staff to adopt a 3.5 percent fee increase for 2012. The most recent fee update in 2011 did not alter the subdivision or re-inspection fees to coincide with the rate of inflation from 2009-2011. The proposed amendment will update these fees.

As illustrated in the attached chart, the proposed fees are more or less consistent with practices in other mid-sized cities.

The consequence of denying the amendment is that the 2012 Operating Budget relies on this fee increase to fund the CPED budget, and not adopting the changes would result in deficient funds. The gap between the cost of reviewing land use applications and the ability to recapture those costs through fees will also continue to increase over time.

Comprehensive Plan:

How will this amendment implement the Comprehensive Plan?

The following policies of the *Minneapolis Plan for Sustainable Growth* apply:

Policy 1.1: Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.

- 1.1.1 Ensure that the City's zoning code is consistent with The Minneapolis Plan and provides clear, understandable guidance that can readily be administered.

Policy 4.1: Support private sector growth to maintain a healthy, diverse economy.

- 4.1.5 Continue to streamline City development review, permitting and licensing to make it easier to develop property in the City of Minneapolis.

Policy 5.8: Make city government more responsive to the needs of people who use its services.

- 5.8.3 Effectively engage the public when making decisions that create, remove, or change a city service, project, or policy.

The proposed amendment is consistent with the above policies of the Comprehensive Plan. With the variety of regulations that are needed to implement the comprehensive plan, and with the desire to encourage public awareness and participation through a public hearing process, there is a need to pay for the review of land use applications. A large portion of the development review cost has historically been recovered directly through land use application fees.

Recommendation of the Community Planning and Economic Development--Planning Division:

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the zoning code text amendment to Chapter 525, Administration and Enforcement and Chapter 598, Land Subdivision.

Attachments:

1. Ordinance amending Chapter 525
2. Ordinance amending Chapter 598
3. Chart illustrating land use application fees in other mid-size cities