

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

Date: August 15, 2011

Initiator of Amendment: Council Member Schiff

Date of Introduction at City Council: July 1, 2011

Specific Site: Citywide

Ward: Citywide **Neighborhood Organization:** Citywide

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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, and to establish application fees for new land use applications that have been established by previously approved text amendments.

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 2009. Since that time there have been ongoing changes to the zoning code and staff review processes, as well as the adoption of new land use application types. Furthermore, the current fee schedule does not reflect the rate of inflation from 2009-2011. These factors result in a need to re-examine zoning application fees in an attempt to recover a greater share of the cost of providing services. Staff has conducted an analysis of zoning application fees and the recommended fees are illustrated in the attached amendment. The attached staff recommendation includes the following key changes:

- Increase most fees by approximately 5 percent, based on the following:
 - The rate of inflation from 2009-2011 (4.8 percent).
 - Text amendments adopted by the City since 2009 that affect the amount of staff time and resources required for certain land use applications, or establish new land use applications.
- Add new fees: administrative review donation collection bins, administrative reviews to increase height or floor area of single and two-family dwellings and conditional use permits for solar energy systems.

No changes are proposed to the subdivision fees at this time and staff is recommending that Chapter 598 be returned to the author.

In addition to considering the cost of providing services related to reviewing zoning applications, staff also considered the issue within the context of fees charged by other municipalities for similar applications. Specifically, staff analyzed fees charged by mid-sized cities in other regions of the

country. This recognizes that the City is in a regional and national marketplace related to development. Staff is also conscious of the fact that other City agencies (e.g., Inspections, Licenses) also charge fees for services related to new development. The increase in fees is intended to balance the need for cost recovery while not making it prohibitively expensive for applicants to go through the land use application process.

For those land use application fees that are not changing, staff has determined that the existing fees are sufficient to substantially cover costs. In addition to fees included in Chapter 525, the City also charges fees that are not codified in the Code of Ordinances. As part of this amendment, staff is proposing to amend the fees charged for zoning letters to differentiate between commercial and residential properties. The current fee is \$100 for a zoning letter regardless of the use. Due to the additional staff time required to prepare a commercial zoning letter (anything more than 4 dwelling units), staff is recommending a separate fee of \$150 for commercial properties. Staff is also recommending a surcharge of \$50 for expedited zoning letters, or those that are produced within 24 hours at the request of the applicant.

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 establish new zoning application fees and adjust current zoning application fees in recognition of the costs of services performed and work 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. The amendment will also establish fees for new application types that have not had fees assigned. Upon adoption and publication of the staff recommendation, fees would cover a higher percentage of the cost of providing services to applicants and allow staff to secure fees for new application types.

Among the public purposes served by the amendment, the new and 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 majority of the fee increases are in line with the rate of inflation and the cost of staff time and resources.

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 it has been over two years since the last time the entire fee schedule was updated. Zoning code changes in that time have resulted in the need to adopt new fees for newly established application types. Recent budget issues related to cuts in local government aid from the State of Minnesota also contribute to the timeliness of this amendment.

Examples of fees from other Duluth and Rochester are among those reviewed. The proposed fees are more or less consistent with practices in other mid-sized cities.

The consequence of denying the amendment is that the gap between the cost of reviewing land use applications and the ability to recapture those costs through fees will continue to increase over time. In that situation, zoning application reviews may need to be subsidized with dollars from the general fund.

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 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. Staff further recommends that Chapter 598 be returned to the author.

Attachments:

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