



Staff Report

File #: 17-304

Version: 1

Date: 6/26/2017

Item #: 4.b.

TO: Mayor and City Council

THROUGH: Steve Powers, City Manager

FROM: Lisa Anderson-Ogilvie, AICP,
Interim Community Development Director

SUBJECT:

Land use fees and charges for Planning and Public Works for Fiscal Year 2017-18.

Ward(s): All Wards

Councilor(s): All Councilors

Neighborhood(s): All Neighborhoods

ISSUE:

Shall the City Council adopt Resolution No. 2017-34 setting land use fees and charges for the Planning Division and the Public Works Department?

RECOMMENDATION:

Adopt Resolution No. 2017-34 setting land use fees and charges for the Planning Division and the Public Works Department.

SUMMARY AND BACKGROUND:

Resolution No. 2017-34 sets land use fees and charges for the Planning Division, and certain fees and charges for the Public Works Department, for Fiscal Year 2016-17.

Land use fees in the Planning Division and Public Works Department are proposed to be increased 2.6 percent to reflect the Portland-Salem Consumer Price Index (CPI). Fees are being added for expedited subdivisions, short-term rental license and renewal, accessory short-term rental license and renewal. The fee for historic demolition review is being modified to require a deposit and to include actual hourly rate and processing charges to reflect the time required of these cases.

Adoption of certain land use application and appeal fees are a "land use decision" requiring notice and public hearing consistent with state land use laws and Statewide Planning Goal 1 - Citizen Involvement. The City Council's public hearing on the proposed fee resolution satisfies this requirement.

FACTS AND FINDINGS:

Increase to Meet Cost Recovery of 50 Percent

In February 2013 the Planning Division presented a 5-year plan to achieve a 50-percent cost recovery and have proposed fee increases each year towards that goal. The Planning Division reached that goal last year, two years ahead of schedule, due to increased land use applications and continues to meet the 50-percent cost recovery goal. Since the 50-percent cost recovery target has been achieved the Planning Division's fees are proposed to increase by 2.6 percent to reflect the Portland-Salem Consumer Price Index (CPI).

Other Proposed Changes to the Fee Schedule

Additional changes:

- Short-term Rental and Accessory Short-term Rental Licenses: The City Council approved Ordinance No. 5-17 on June 12, 2017 establishing a license requirement for short-term rentals and accessory short-term rentals. The proposed annual fee is \$184.50 to cover processing and issuing the license and inspection of the short-term rentals and accessory short-term rentals. Though the license is not a land use decision, it will appear on the Planning Division's fee sheet, as it will be administered by the Planning Division.
- Expedited Subdivisions: An expedited land division process was created in state law in 1995. The expedited process requires more work of staff and has a prescribed appeal process. At that time the City adopted a fee for expedited partitions but not subdivisions.
- Historic Demolition Review: The current fee for historic demolition review is \$285 for residential structures and \$631 for commercial or public structures. In comparison the Historic Resource Adaptive Reuse fee is \$2,555. (This fee cannot be lowered because these applications are reviewed by the Hearings Officer and the fee must cover his hourly rate in addition to staff time.) All historic demolition applications must be reviewed by the Historic Landmarks Commission; the same criteria apply to residential, commercial and public. The proposed fee will charge a base fee for processing (\$1,270) and the actual hourly rate and processing charges. All other historic review fees will remain the same.
- Septic Tank and Special Setback Recordation: These fees are proposed for removal as the septic tank recordation is no longer a process the City reviews or requires and the special setback is included in the Public Works fee schedule.
- Other changes: The fee schedule was updated to clarify that a land division application (subdivision, partition and replat) with a variance requires the variance fee to be paid in addition to the land division fee. Another proposed change is the modification application fee is 10% of the current application base fee, instead of the original base fee. All other changes are for clarity and consistency in the table.

Public Works Department Land Use Fees

The fee resolution includes Public Works Department fees for land use actions. These fees are adjusted annually by a 2.6 percent increase to reflect the Portland-Salem Consumer Price Index for Fiscal Year 2017-18.

Statutory Limits on Application Fees

The amount the City may charge for land use application fees is regulated under several different state statutes. Oregon Revised Statute (ORS) 227.175(1) requires that “permit” fees must be no more than the “actual or average cost” of processing the application. The term “permit” is defined in ORS 227.160 as a discretionary approval of a proposed development of land.

“Permit” does not include approvals of land use matters where only limited discretion is used by the decision maker, or zone changes, comprehensive plan designation changes, or tentative plan applications for partitions or subdivisions. Examples of “permit” decisions routinely made by the City include conditional use permits and zoning variances.

ORS 92.044(3) & (4) and 92.046(4) require that the fee for review of land division tentative plans be no more than the amount “sufficient to defray the costs incurred in the review and investigation of and action upon” the proposed subdivision or partition.

The amount a city may charge for appeal fees is also regulated under statute. ORS 227.175(10) limits the fee charged to file an appeal of a permit decision made without a hearing to no more than the cost for preparing for and conducting the appeal, or \$250, whichever is less. Fees charged to file an appeal of a decision made with a hearing shall be reasonable, and no more than the average cost or the actual cost of the appeal. To avoid confusion, appeal filing fees for appeals of all land use decisions are the same amount and not proposed to be increased. Appeals filed by recognized neighborhood associations will remain free.

The proposed fees remain below the actual costs incurred by the City to process applications, and therefore, conform to the limits set by state statute.

Lisa Anderson-Ogilvie, AICP
Interim Community Development Director

Attachments:

1. Resolution 2017-34