



Legislation Text

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City of Alexandria, Virginia

MEMORANDUM

**DATE:** MAY 19, 2021

**TO:** THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

**FROM:** MARK B. JINKS, CITY MANAGER /s/

**DOCKET TITLE:**

Consideration of a Resolution to Add and Amend fees on the Planning & Zoning Fee Schedule. [ROLL-CALL VOTE]

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**ISSUE:** Consideration of revisions to the Planning & Zoning Fee Schedule.

**RECOMMENDATION:** That City Council adopt the proposed resolution (Attachment 1) to make the following changes to the Planning & Zoning Fee Schedule:

- (1) To authorize fees to cover costs associated with a third party financial analysis when an applicant requests a modification of the contribution required under the Housing Contribution Policy;
- (2) To authorize fees to cover costs associated with a third party green building review when an applicant requests flexibility or a unique approach to meeting the City's Green Building Policy with a Development Site Plan (DSP) or Development Special Use Permit (DSUP); and
- (3) To establish a limitation of three DSP/DSUP applications with each development plan review fee.

**BACKGROUND:** This resolution amends the Planning & Zoning fee schedule to allow for cost re-capture, or reimbursement, for costs associated with a development applicant's request for an exception, modification, or alternative approach for meeting two kinds of City Council-approved development policies: the Housing Contribution Policy and the Green Building Policy.

In addition, staff is proposing to clarify how fees for Development Site Plan and Development Special Use Permit are calculated for large, multi-building projects.

## **Housing Contribution Policy**

The City Council approved an update to the Policies and Procedures Regarding Affordable Housing Contributions on December 12, 2020 with the addition of “Requests for Exceptions” flexibility language which was finalized on January 26, 2021. That flexibility language requires an applicant who requests an exception or modification to the approved Affordable Housing Requirements to both undergo an independent third-party review of the request and to pay the costs of that review. The purpose of this amendment to the Planning & Zoning fee schedule is to provide the mechanism for that payment to be made.

Attachment 1 contains the language regarding how requests for exceptions are to be handled. Based on market data and staff analysis, the Office of Housing has determined that the cost of such a review would be \$250/hour. Staff estimates that about 40-hours or \$10,000 would be sufficient in most cases to cover the time required for a third-party economic review of a development project. The Office of Housing has further clarified that such requests for modifications may also occur for Continuum of Care and Independent Living applications that are similarly seeking an exception or modification to the affordability requirements for those land use types.

## **Green Building Policy**

City Council adopted the 2019 Green Building Policy at its public hearing on Saturday, June 22, 2019. The new policy is in effect for all development applications submitted on or after March 2, 2020. LEED, Green Globes, and EarthCraft are the standard third-party green building rating systems accepted under the Green Building Policy. In addition to these three green building rating systems, projects may choose an alternative path for certification through an independent, third-party certifier. The independent, third-party certifier must verify that the performance standards of the Green Building Policy are met.

In addition, flexibility from the Green Building Policy will be considered on a case-by-case basis. If flexibility is requested, the Director of Planning & Zoning will consider the project size, proposed use and the alternate green building practices the applicant proposes to incorporate into the project to determine if the request is justified.

Similar to the Affordable Housing Contribution Policy, requests for flexibility under the Green Building Policy may require the analysis of an independent, third-party certifier. Similarly, staff proposes that the costs for this analysis be paid by the applicant.

For the Green Building Policy, there was some detailed work by an independent consultant to determine how to make the Green Globes and EarthCraft ratings system equivalent to LEED. The addition of a fourth green building rating system would require a similar effort. If the organization sponsoring a different rating system would like to be considered for inclusion, or if an applicant would like to use a different rating system than those currently available, they may do so, but the cost burden of that analysis should fall to the applicant. The Department of Planning & Zoning estimates that the cost to conduct the equivalency analysis for a new certification program would not exceed \$6,000. This number is based on our contract with Integral Group, our green building consultant. They are required to provide this specific service not to exceed \$6000. If the developer wants something else customized, they would be charged a \$200/hour fee as explained further below.

From time to time, an applicant may also request flexibility on a case-by-case basis for their project. Should their proposal for an alternative pathway to meet Green Building requirements be complex, it could require an independent, third party review. The Department of Planning & Zoning has determined the cost to conduct such

a customized review to be \$200 per hour, based on our contract with Integral Group, our green building consultant.

Planning & Zoning staff reviewed the proposed charges with representatives of the development industry at the monthly meeting of NAIOP earlier this year and heard no objections.

### **Calculating Fees for Multi-Building DSPs and DSUPs**

Periodically, a developer will submit for approval of a Development Site Plan or, more likely, a Development Special Use Permit that covers multiple blocks or buildings. If there is any likelihood that the project will ultimately be broken up and sold to different owners, it is highly desirable to bring the elements of the project through the approval process as separate DSUPs. When multiple properties are covered by a single DSUP, for example, it can be complicated to process future amendments that may be justified by changes in circumstance.

Staff has encouraged applicants to apply for separate DSPs and DSUPs, but staff's goal is not to multiply the number of fees that are charged. If a single DSUP were split into three separate DSUPs, it is not staff's intent to triple the DSUP fee, because the separation does not cause additional staff work and is primarily for future efficiency. However, staff believes there is an upper limit on how many separate DSPs/DSUPs can be considered a single DSUP for the purposes of calculating fees, and that number is three.

Planning & Zoning staff reviewed this proposed change with representatives of the development industry at the monthly meeting of NAIOP earlier this year and heard no objections.

**DISCUSSION:** To implement the ability to charge for independent, third-party reviews of development applications, the Planning & Zoning Fee Schedule would be modified to add the following line items (see also Attachment 2):

**Affordable Housing Contribution Review Fee:** For development applicants who are seeking density in excess of density envisioned by an underlying Small Area Plan and requesting a modification to the City's Affordable Housing Contribution Requirements for a third-party professional review of the request: \$250/hour.

**Green Building Review Fee:** Submission requiring a third-party, sustainability professional to assess compliance with the City's 2019 Green Building Policy: \$200/hour. A footnote will state: "Where the City needs to have a third-party, sustainability professional to review a submission, a green building review fee of \$200/hour will be charged to development applicants to assess compliance with the City's 2019 Green Building Policy. This would include a fee of up to \$6000 for green building certification companies and/or development applicants who may apply to have a new certification program added to the Green Building Policy."

**DSP/DSUP Fee:** To implement the clarification for the DSP/DSUP fee, staff is requesting that the following language be added to the Planning and Zoning fee schedule regarding DSP/DSUP fees:

"Each development plan review fee will cover a maximum of three DSP/DSUP applications. The three DSP/DSUP applications must also be located on the same site."

**FISCAL IMPACT:** Because the City would be charging only for costs incurred by the applicant's requests, there will be no fiscal impact to the City associated with these changes to the fee schedule. These fee changes will be effective July 1, 2021.

### **ATTACHMENTS:**

Attachment 1 - Resolution

Attachment 2 - Planning & Zoning Fee Schedule

Attachment 3 - Affordable Housing Contribution Policy Update Summary

Attachment 4 - 2019 Green Building Policy

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