City of Portland
Bureau of Development Services

1900 SW Fourth Avenue, Suite 5000
Portland, OR 97201
Telephone: (503) 823-7300 Fax: (503) 823-3018

PERMANENT RULE

RELATING TO
Title 33.750 Planning and Zoning Fees

FOR INFORMATION CONTACT
Rebecca Esau 503-823-6966

TOPIC: **Administrative Fees for Land Use Processes**

AUTHORITY:
The Bureau of Development Services (BDS) has the authority for application, implementation and enforcement of the provisions of Planning and Zoning Regulations, Title 33. Under Section 3.30.040 A, the Director of BDS has the authority to adopt written policies and procedures for the enforcement of applicable Code provisions and laws. Sections 33.750.010 and 33.750.020 of the Planning and Zoning Regulations create the general framework for administrating fees elated to Title 33. The purpose of this Administrative Rule is to establish guidelines for fee charges, refunds and waivers in relation to the land use review processes.

CITATION:

3.30.010 Duties of the Bureau of Development Services.
The Bureau of Development Services shall be responsible for:

B. The application and enforcement of the provisions of Planning and Zoning Regulations, Title 33 as delegated by the Director of Planning.

33.750.010 Purpose
Application fees aid in defraying the City's cost for processing applications. Fees charged are not intended to exceed the average cost for processing the type of review requested.

33.750.020 Fee Schedule and Procedures
Required fees for Title 33 land use reviews and appeals of land use decisions are stated in the bureau's Fee Schedule, available at the Development Services Center. Rules and Procedures for the payment of fees, refunds, and waiver of fees are determined by the Director of BDS.

EFFECTIVE: _____***[Paul L. Scarlett]***_____July 1, 2006
Paul L. Scarlett, Director

Administrative Rule

Administrative Fees for Land Use Processes

I. Intent and Purpose.
The purpose and intent of this rule is to establish criteria by which the Director of the Bureau of Development Services will charge, refund or waive fees associated with the land use review process.

II. General Fees
The Bureau of Development Services (BDS) has the authority to charge a fee for the services identified on the adopted fee schedule.

Current fees are available in the BDS fees schedule available on-line at www.*portlandonline.com/bds* or in the Development Service Center located at 1900 SW 4th Avenue, Portland, OR 97201.

III. Change of a condition of approval
All requests to change any conditions of approval of a final land use review decision must include a review fee. The review fee is either the current fee for the applicable land use review or the unassigned review fee, whichever is less.

IV. Fee Waivers or Refunds
The Director of BDS will consider fee waivers or refunds on a case by case basis. The decision of the Director to waive or refund fees is final.

A. Fee Waivers
The Director may waive BDS land use review or appeal fees as specified below for recognized organizations, low-income applicants, City government or nonprofit organizations. (A "recognized organization" is defined in PCC 33.910.) An application for a fee waiver may be filed concurrently with the land use review application or appeal form.

1. Recognized organization appeal fee waivers.

a. Type II and IIx Land Use Reviews. Per state law, no appeal fee is charged to recognized organizations for the appeal of a Type II or Type IIx land use review and the site must be within that neighborhood or community organization's boundaries. To be deemed "recognized" by the Office of Neighborhood Involvement (ONI), the organization has to abide by the Oregon Public Records and Public Meeting Laws, and ONI requires that any vote of the neighborhood association be in accordance with the organization's bylaws.

b. Type III Land Use Reviews. The Director may waive land use review appeal fees for recognized organizations for Type III land use reviews if all of the following conditions are met:

1) The recognized organization has standing to appeal. (See City Zoning Code Section 33.730.030.F, Ability to appeal);

2) The appeal is being made on behalf of the recognized organization; and
3) The appeal contains the signature of the chairperson of the organization, as recognized by the Office of Neighborhood Involvement, or the signature of other persons authorized by the organization, confirming the vote to appeal was done in accordance with the organization's bylaws.

2. **Low-income fee waivers.**
The Director will determine eligibility for all Land Use Services (LUS) fee waivers. Financial information provided by the applicant will remain confidential to the extent permitted under Oregon public records law.

a. **Land use review fees.** A low-income applicant may request a land use review fee waiver on the site of the applicant's primary residence, if the applicant owns the site in whole or in part.

1) An applicant receiving a fee waiver must be an individual or noncorporate entity.
2) An applicant for a fee waiver will be required to certify gross annual income and household size. The fee will be waived only for households with a gross annual income of less than 50 percent of the area median income as established by the Department of Housing and Urban Development (HUD), as adjusted for household size. The Director must make information relating to fee waivers available for review.

b. **Appeal fees.**

1) Appeal fees may be waived for applicants qualifying for a land use review fee waiver who are appealing the decision on their application.
2) Appeal fees also may be waived for a low income individual or noncorporate entity appealing a land use review decision in their neighborhood, provided the following are met:
   a) The individual resides or the entity is located within the required notification area for the review; and
   b) The individual has resided in a dwelling unit at that address for at least 60 days.

3. **City government fee waiver.**
The Director may waive the LUS land use review fees when a City Bureau is the applicant.

4. **Nonprofit fee waiver.**
The Director may waive the LUS land use review fees for nonprofit organizations that directly serve low-income individuals. To waive the fees, the Director must find that the activities, but not necessarily the specific request of the organization, are consistent with and further City goals and policies.

B. Fee Refunds.
The BDS Director will consider fee refunds for required fees as noted below.

1. **Appeals.** Appeal fees are refunded for the appeal of Type II, IIx and III land use review decisions meeting the following conditions:

   a. **Type III Land Use Reviews.** The appeal hearing was limited to evidence found in the case record and no new evidence was allowed to be presented; and

   b. **Type II, IIx and III Land Use Reviews.** The appellant must prevail if a refund is to be granted. An appellant has prevailed if the appellant succeeds in:

      1) Overturning the lower decision maker's decision; or
      2) Persuading the appellate decision maker to modify the lower decision maker's decision in the appellant's favor for one or more of the reasons identified in the appeal.

      It is not necessary for the appellant to prevail on all of the issues raised--prevailing on just one issue is sufficient.

2. **Unnecessary fees.** When a fee is accepted for a land use review that is later found to not be required, a full refund of all City land use review fees for the unnecessary review will be given.

3. **Errors.** When an error is made in calculating a fee, overpayment will be refunded.

4. **Withdrawn land use review applications, final plat applications, pre-application conferences or early assistance appointments.** Refunds for withdrawn land use applications, final plat applications, pre-application conferences, or early assistance appointments shall be granted as provided below:

a. Withdrawn land use review applications. Requests for withdrawal of a land use application must be in writing. Fees will be refunded as follows:

When a written request for the withdrawal of a Type I, II or IIx Land Use Review application is received:	Amount of refund:
Before the Notice of Proposal is sent to P&D	75% However, in no case should the amount the City retains be less than $200 or more than $1,500.
After the Notice of Proposal is sent to P&D but before staff sends the Notice of Decision to P&D	25% However, in no case should the amount the City retains be less than $300 or more than $4,000.

When a written request for the withdrawal of a Type III or IV Land Use Review application is received:	Amount of refund:
Before the Request For Response is sent to the infrastructure bureaus.	75% However, in no case should the amount the City retains be less than $400 or more than $2,000
After the Request For Response is sent to the infrastructure bureaus, but before the Notice of Public Hearing is sent to P&D	50% However, in no case should the amount the City retains be more than $7,000
After the Notice of Public Hearing is sent to P&D, but before the staff recommendation is published.	30% However, in no case should the amount the City retains be more than $10,000

b. Withdrawn final plat applications. Requests for withdrawal of a final plat application must be in writing. Fees will be refunded as follows:

When a written request for the withdrawal of a Final Plat application is received:	Amount of refund:
After staff sends the first redlines or plat comments to the customer	50%
After staff sends the second redlines or plat comments to the customer	25%

c. Withdrawn pre-application conferences. Fees for withdrawn pre-application conferences will be refunded as follows:

When a Pre-application Conference is withdrawn:	Amount of refund:
Before staff sends the conference information to the infrastructure bureaus	75%
After staff sends the conference information to the infrastructure bureaus, but at least 7 days prior to the conference	50%
Within 6 days prior to the conference.	25%

d. Withdrawn early assistance appointments. Fees for withdrawn early assistance appointments will be refunded as follows:

When an Early Assistance Appointment request is withdrawn	Amount of refund
At least 7 days prior to the appointment	50%