


To: Mayor Samuelson and Members of the City Council

Date of Report: October 26, 2009

Staff Contact:  Larry E. Cort, Director of Community Planning

Meeting Date: November 2, 2009

Subject: SECOND READING – Amendments to LMC Chapter 3.26

Attachment: Draft Ordinance No. 925 w/Exhibit A

This staff report presents a draft ordinance containing proposed amendments to Chapter 3.26 of the Langley Municipal Code entitled Land Use Fees. If approved, these amendments would change the way in which fees are charged for reviewing land use applications and set the fee amounts to get as close as possible to full cost recovery for staff and consultant time spent on project review, plan check and field inspection.

UPDATE

The proposed changes to Chapter 3.26 of the Langley Municipal Code, along with the revised fee schedule, were introduced as a first reading at the October 19, 2009 City Council meeting. As a result of this discussion, the following changes have been made to Exhibit A, the fee schedule:

1. A footnote has been added to the design review fee noting that the valuation amounts upon which the review fee will be based are from the building permit valuation as performed by the Langley Building Official.
2. A \$50 fee for paint color-only applications has been added to the design review fees.
3. We have reviewed staff hours for Type I and Type II home occupations and we believe that these fees can be reduced from \$140 and \$370 respectively to \$100 and \$240.

RECOMMENDED ACTION

Consider a second reading for adopting Ordinance No. 925 to amend Chapter 3.26 of the Langley Municipal Code entitled "Land Use Fees."

ORDINANCE NO. 925

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LANGLEY, WASHINGTON, AMENDING CHAPTER 3.26 OF THE
LANGLEY MUNICIPAL CODE, ENTITLED "LAND USE FEES"**

WHEREAS, the City of Langley has through the adoption of Chapter 3.26 of the Langley Municipal Code established a fee structure and collections procedure for land use actions from pre-application to final land use decision to final occupancy: and

WHEREAS, the City of Langley did for many years employ a consulting planning official who would bill the City for work performed on land use applications and from that bill the City would itemize by application and prepare an invoice to cover those costs: and

WHEREAS, the gradual shift over the past five years from consulting planners to staff planners has resulted in a more customer-friendly ethic and more predictability in the number of hours that are spent by various City of Langley staff in reviewing land use applications: and

WHEREAS, the Langley administration, in an effort to make more efficient use of staff time by reducing detailed time accounting and customer invoicing from the land use review process while at the same time providing bottom line predictability for customers at the point of application, did initiate an internal analysis of hours spent on different types of applications: and

WHEREAS, this analysis resulted in a revised fee schedule based on actual staff salaries and anticipated review hours that would charge a flat fee at the point of application that would cover City staff costs through a final decision, with all consultant costs and charges accruing for plan review and inspection after the final decision still subject to the hourly rate charge: and

WHEREAS, the City Council believes that it is in the best interest of the public and a more efficient use of staff resources to adopt a new fee schedule that establishes a standard base

fee by application type to compensate the City of Langley for staff time spent on land use reviews: now, therefore,

THE CITY COUNCIL OF THE CITY OF LANGLEY, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. LMC Chapter 3.25 Amended. Chapter 3.26 of the Langley Municipal Code is hereby amended consistent with the following (strikethroughs shall be treated as deletions and underlines shall be treated as additions):

Chapter 3.26 LAND USE FEES

Sections:

- 3.26.010 Purpose.**
- 3.26.030 Imposition.**
- 3.26.040 Calculation of fees.**
- 3.26.050 Time and manner of payment of fees.**
- 3.26.060 Processing of applications.**
- 3.26.070 Administrative appeals.**
- 3.26.080 Refund-Waiver.**

Section 3.26.010 Purpose.

~~This chapter is intended to supplement the fees required by any and all other city ordinances and resolutions, or any other applicable laws, and the requirements of this chapter are in addition thereto. This chapter is not intended to create any new or additional substantive requirements or burdens on land development. The purpose of this chapter is to establish a fee structure for staff and consultant review of land use applications or proposals such that the full cost of said review is borne by the applicant or proposer. (Ord. 557, 1990)~~

Section 3.26.030 Imposition.

Fees shall be imposed upon all applications and proposals contained in Exhibit A, attached hereto and incorporated into this chapter by this reference. ~~within the scope of this chapter.~~ Such fees (hereinafter referred to as "fees") shall consist of base fees, hourly plan review and inspection fees and consultant fees.

A. ~~Base fees are intended to~~ compensate the city for city staff time, a set number of hours for the city engineer, administrative costs and overhead incurred by the city in connection with reviewing a particular application or proposal from the application date to the day of final decision. Base fees are established for each type of action.

B. Plan review and inspection fees compensate the city for city staff time, administrative costs and overhead incurred by the city in connection with performing plan review and field

inspection from the day of a final decision on a land use application to final occupancy approval. Plan review and inspection fees are based on actual hours spent by City staff in the course of this work. The hourly rates for City staff are established in Exhibit A and final payment of plan review and inspection fees is due at the time of final occupancy review.

BC. Consultant fees are intended to compensate the city for the cost of all consultant costs incurred by the city in connection with any application or proposal within the scope of this chapter identified in Exhibit A. As used in this chapter, "consultant" means any person providing professional services who is not an employee of the city. As used in this chapter, "consultant" includes without limitation, the city planning officer, the city attorney, the city building official and the city engineer (for hours in excess of the set number of hours for the city engineer as noted in Exhibit A) and any other consultant deemed necessary by the city. Consultant fees shall equal the total cost of all consultants utilized by the city in connection with the processing and review of a particular proposal plus an administrative fee. The hourly total consultant fee shall be based upon the amount of time expended by the city consultants on an application or proposal from the date of application to final occupancy. The City may bill for consultant costs at any time during this period.

CD. The land use fees which are adopted by the enactment of this ordinance are contained in Exhibit A, attached hereto and incorporated into this code by this reference. Hereafter, this Land Use Fee Schedule may be amended or otherwise changed by resolution. (Ord. 583, 1990; Ord. 557, 1990; Ord. 715, 1996) (Ord. 667, 1994) (Ord. 801, 2002)

Section 3.26.040 Calculation of fees.

The proponent of any proposal within the scope of this chapter shall pay the following fees to the city for reviewing, processing and inspecting the proposal:

A. ~~The hourly fee or the base fee whichever is greater; provided, however, that if a particular proposal involves more than one type of action, the minimum amount~~ total base fee paid to the city shall be the total of the base fees for all types of action; and

B. All plan review and inspection fees incurred by the city in connection with review and inspection of an action following a final land use decision.

BC. All consultant fees incurred by the city in connection with the processing, inspection and review of such proposal. (Ord. 557, 1990)

Section 3.26.050 Time and manner of payment of fees.

Fees required pursuant to this chapter shall be paid as follows. Upon receipt of an application relating to any proposal within the scope of this chapter, the city ~~land-use coordinator~~ planning official, or his designee, shall ~~send a written notice to the applicant stating the amount of the initial deposit required. The amount of the initial deposit shall equal the total estimated amount of fees required for the processing of such proposal. The applicant shall then deposit such amount with the city. The city shall deduct city costs relating to the processing of such proposal as they are incurred. If the initial deposit is exhausted prior to the completion of processing, the land use coordinator shall require the applicant to make one or more additional deposits in amounts equal to estimated additional costs which will be incurred by the city to complete processing of the proposal. All estimates of fees shall be made by the land use coordinator.~~ collect the total base fee based on the current fee schedule. (Ord. 557, 1990)

Section 3.26.060 Processing of applications.

The city shall not begin to process any application within the scope of this chapter ~~without payment of the base fee, until the initial deposit has been paid in full. When an additional deposit is required, no further processing of such application by the city shall be made until the additional deposit has been paid in full.~~ No license, certificate, permit, or approval within the scope of this chapter shall be issued until all fees and additional charges imposed pursuant to this chapter have been paid in full. (Ord. 557, 1990)

Section 3.26.070 Administrative appeals.

The fees collected from the proponent of any proposal pursuant to this chapter shall include costs incurred by the city in connection with any administrative appeal (including any quasi-judicial appeal) which may be made by any person in connection with such proposal. (Ord. 557, 1990)

Section 3.26.080 Refund-Waiver.

- A. Refunds are permitted, if applications are withdrawn, as follows:
 - 1. Fifty percent refund prior to DNS when SEPA decision is required;
 - 2. Fifty percent refund prior to public notice for those applications exempt from SEPA;
 - 3. Fifty percent refund prior to application routed to other city departments when exempt from SEPA and public notice.
- B. No fee established under this chapter shall apply to any city project funded by ~~any city controlled funding sourcee~~ the city's general fund. (Ord. 557, 1990)

Section 2. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 3. Effective Date. This Ordinance shall take effect and be in full force and effect upon publication in the official newspaper of record.

PASSED by the Council and approved by the Mayor of the City of Langley, this 2nd day of November, 2009.

CITY OF LANGLEY

Paul Samuelson, Mayor

ATTEST/AUTHENTICATED:

Debbie Mahler, City Clerk

APPROVED AS TO FORM:

Grant Weed, City Attorney

**EXHIBIT A to Ordinance No. 925
Land Use Fee Schedule**

Type of Application	Base Fee (\$)¹	Engineering Hours included in Base Fee²
Accessory Dwelling Unit	550	1
Annexation	2,120	10
Administrative Appeal	840	2
Bed & Breakfast Rooms	370	1
Bed & Breakfast Inns	640	1
Binding Site Plan	1,820	5
Binding Site Plan Amendment	800	2
Boundary Line Adjustment	480	1
Occupancy Review (zoning compliance)	500	1
Code Enforcement	Actual cost based on hrs	0
Code Interpretation-Written	200	0
Comprehensive Plan Amendment	1,400	0
Conditional Use Permit-Minor	430	0
Conditional Use Permit	1,090	2
Cottage Housing Development	2,850-6 homes or fewer 3,850-7 or more homes	10
Design Review³	50-paint color only 100-\$20,000 or less 180-\$20,000 to \$50,000 265-\$50,000 to \$100,000 350-\$100,000 or more	0
Sign Permit	50	0
Clearing and Grading	260	0
Home Occupation-Class I	100	0
Home Occupation-Class II	240	0
Home Occupation-Class III	700	1
Home Occupation-Annual Review	200	0
Nonconforming Use/Building Review	170	0
Other Applications	440	1
Open Space Taxation	170	0
Planned Unit Development	to be deleted	

¹ Fee amounts listed cover staff costs accrued during land use application review only. This fee does not cover other costs that must be borne by the applicant, such as the costs of outside consultants hired by the City to perform peer or specialized reviews, staff or outside consultant costs associated with inspection during plan review and construction inspection and legal costs incurred by the City during project review, appeals and inspection. All such additional costs are subject to a 10% administrative fee.

² Engineering hours in excess of the hours listed shall be billed at the engineer's hourly rate plus 10% administrative fee.

³ Dollar ranges are based on building permit valuation as determined by the Langley Building Official.

Pre-application Conference	570	1
Rezone - Lower Classification		
Rezone - Higher Classification	1,200	0
Critical Area Permit	420	0
Critical Area Permit Amendment	330	0
Shoreline Substantial Development	1,900 - upland 2,900 - overwater	10
Shoreline Conditional Use	420	0
Shoreline Variance	420	0
Shoreline Exemption	120	0
Shoreline Permit Amendment	420	0
Short Plat Preliminary	1,630-2 lots 2,630-3 or 4 lots	5 10
Short Plat Final	570	2
Short Plat Amendment	1,300	5
SEPA Review	1,520	5
SEPA - DNS or MDNS	170	0
SEPA - DS	820 + actual cost	2
Street Vacation	680 + appraisal	1
Long Plat Preliminary	2,850-5 or 6 lots 3,750-7 to 10 lots 4,750-over 10 lots	10
Long Plat Final	1,640	5
Long Plat Alteration	2,030	5
Temporary Use	280	0
Time Extension Request	160	0
Variance	1,040	0
Zoning Text Amendment	1,040	0
HOURLY CHARGES (subject to 10% administrative fee)		
City Staff	City Hired Consultants	
\$45/hour	Actual Costs	