

Land Use Series

December 9, 2008

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Bringing
Knowledge
to Life!

How to Set Permit Fees

Keep it Simple

The following might be used as an outline for a permit fee schedule. The idea is to keep it simple, with as few different fees as possible. It is assumed all land use permits, special use permits, planned unit developments (PUDs), appeals, will have site plans. A fee is established for each of the following:

- Land Use Permit
- Land Use Permit (minor: fence, deck, sign, etc.)
- Special Use Permit
- Planned Unit Development
- Appeals (variance)
- Petition to amend the zoning ordinance
- After the Fact Permit multiplier (X2 or X3)
- Special Meetings
- Land Division Fee

*"Thirty seven million
acres is all the Michigan
we will ever have."*

Former Governor
William G. Milliken

To Figure out the Fee Amount

The following are steps which might help in figuring out what should be charged for permits:

FIRST: Use the above list of zoning permit types. Read through the zoning ordinance to determine if there might be others which are unique to your municipality.

SECOND: Estimate the actual costs to issue one permit, for each type listed. Generally, the work involved and the cost to issue one permit will be the same, regardless if it is commercial, residential, or another type of use. Thus one should expect the same fee regardless of the kind of use for the same type of permit. Actual costs can include all or some of the following, and may include more:

- cost of forms plus copies.
- cost of keeping zoning permit files
- cost of paying the zoning administrator
- cost of mileage to make inspections (paid to the zoning administrator)
- cost of meetings (mileage and per diem)

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<http://ntweb11a.ais.msu.edu/luaoe/index.asp>

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- cost of office space
- cost for consultant (engineer, planner or other professional) review
- legal costs (paid to a lawyer)
- costs of publishing, mailing, etc. the notices of applications, meetings, hearings
- administrative and overhead costs
- some funds set aside for a legal defense/prosecution fund.

	Land Use Permit	Minor Land Use Permit (fence, deck, sign, etc.)	Special Use Permit	Planned Unit Development	Appeals	Petition to amend the zoning ordinance	After-the-fact Permit multiplier	Special meetings	Land Division Fee
Cost of forms and copies									
Cost of keeping zoning permit files									
Cost of paying the zoning administrator									
Cost of mileage to make inspections (paid to zoning administrator)									
Cost of meeting(s) (mileage and per diem)									
Cost of office space									
Cost for consultant review (engineer, planner, or other professional)									
Legal costs (paid to a lawyer)									
Costs of publishing notice									
Cost of mailing notices.									
Administrative and overhead costs									
Funds set aside for legal defense fund/prosecution fund									
Total (total actual costs)									

THIRD: Once the full cost of issuing each type of permit is known then the following decision should be made. There is no right, or wrong, answer. The issue is a policy decision.

- A. If the following statement is agreed with:
 “The zoning ordinance and land division review benefits the person buying the permit(s) and only the user should have to pay for the permit.”

then, the cost figured out, above, should be the cost for each permit.

- B. If the following statement is agreed with:
 “The zoning ordinance and land division review benefits everyone in the municipality and the cost of the permit(s) should be paid by everyone.”

then, there should not be a fee, or the fee should be zero dollars (\$0). The cost of administering the permit system should be paid for by the municipality general fund.

- C. If the following statement is agreed with:
 “The zoning ordinance and land division review benefits everyone in the municipality and has a particular benefit for the person buying the permit. Therefore the cost of permit(s) should be

shared between everyone (general fund money) and the person buying the permit(s).”

then, the proposed fee schedule must reflect what percent of the cost should be part of the permit fee, and what percent should be covered by the municipal general fund. The job, then, becomes deciding what percent of the permit cost should be covered by the permit fee. This is a policy decision, which may have different answers in different municipalities. There is not a “right” or “wrong” answer. It may help to survey surrounding municipalities (or all municipalities in your area of the state) to have an idea what other municipalities are charging. The percent of the permit cost paid for by fee might also be different for different types of permits.

FORTH: Put together a proposed fee schedule and have it placed on the agenda of the next county board, township board, village or city council meeting. The following might be a work sheet for this purpose.

Type of Permit	Total Cost	Percent covered by fee	Proposed fee
Land Use Permit			
Land Use Permit (minor: fence, deck, sign, etc.)			
Special Use Permit			
Planned Unit Development			
Appeals (variance)			
Petition to amend the zoning ordinance			
After the Fact Permit multiplier (x2 or x3)			
Special Meetings			
Land Division Fee			

FIFTH: The county board, township board, village or city council adopts the fee schedule. The fee schedule should always be in writing. (If a fee is never adopted, or is not written, then the fee for that permit is zero (\$0). The cost of a permit should be fixed. A variable fee, or a fee/deposit based on

“actual costs” is not a good idea. If done properly, the fees established will reflect an average of the actual costs of permits, and in the long run will balance out. The following table can be used to present the fee schedule.

Type of Permit	Fee
Land Use Permit	
Land Use Permit (minor: fence, deck, sign, etc.)	
Special Use Permit	
Planned Unit Development	
Appeals (variance)	
Petition to amend the zoning ordinance	
After the Fact Permit multiplier (X2 or X3)	
Special Meetings	
Land Division Fee	

There will be times when it is desired to waive fees because someone is too poor to afford to pay a fee, it is a local civic or volunteer organization, and so on. The ability to do so should be specified in the zoning ordinance. (See the sample, below.)

There will be times when a project comes along where costs are much more than anticipated or considered much more than the “average” used to compute the fees, above. In those cases it is possible to require a deposit to cover those unusual additional costs. This possibility needs to be specifically spelled out in the zoning ordinance (not simply adopted as part of a fee schedule) and requires a formal finding why additional costs are expected, action by the planning commission, establishing a budget, due process, bookkeeping, and refunding any unused portion of the deposit.

This would normally happen with complex types of permits, such as those for PUDs, special use permits, or zoning amendments.

The following is one example of language in

the zoning ordinance to cover this situation. It is not the only way this might be handled. This example is written with the following assumptions:

1. The section numbering system follows the standard system of codification that is the sample presented in the Michigan State University Extension’s *Organization and Codification of a Zoning Ordinance* available at www.msue.msu.edu/lu.
2. All amendments (including this one) are reviewed by the municipality’s attorney before it is adopted.

The process to amend the zoning ordinance is listed as a series of steps in *Land Use Series* “Check List # 4; For Adoption of a Zoning Ordinance Amendment (including some PUDs) in Michigan” available at www.msue.msu.edu/lu.

8240. Permit Fees

- A. The legislative body shall from time-to-time establish and publish a schedule of fees for the operation of this Ordinance, including but not limited to permits, conditional use permits, special use permits, planned unit developments, site plan reviews, demands for appeals, requests to consider amendments to this Ordinance, exhibited service by request or due to after-the-fact processing.
- B. The fees shall have different categories for different types and shall be designed within in each category to cover up to, on average, all costs associated with the processing of the service provided for the fee.
- C. When the Administrator first receives an application which may be of such a nature and complexity that review will be more involved than normal and that additional fees may be required, the Administrator shall act to declare that is the case and refer the issue to the Planning Commission. The Commission, by motion, may find the application requires the assistance of experts in review of specified aspects or issues of the application.

1. Additional costs are when:

- a. The complexity of reviewing the application, in the judgement of the Commission, requires hiring expertise beyond that of the Commission or zoning administrator, such as but not limited to hiring the services of an attorney; professional planner; engineer; architect; land surveyor; environmental, traffic, marketing, and economic development experts.
 - b. The complexity of reviewing the application requires an abnormal amount of additional time by the zoning administrator
 - c. The complexity or controversy of the application results in the Commission being in session (holding meetings, reconvened meetings, hearings) that is more than two times on the application, or holding any special meeting on the application.
 - d. The additional review of the application is exclusively for the proposed development, and if not then the additional fee shall reflect the proportion amount for the proposed development and other items.
2. Upon adoption of the motion requiring additional fee, review of the application shall stop until the applicant has paid a minimum additional fee of one thousand (1,000) dollars. The fee shall be deposited with the Treasurer who shall keep an accurate accounting of the funds in a separate

fund. If the applicant does not deposit the required amount, no further action on the application shall be taken and it will be deemed denied without prejudice under section ___ of this Ordinance.

- 3. The Commission shall use the additional fee to contact and select necessary experts, receive a work proposal and estimate from the experts on their fees and costs for the application, and for the services of the expert(s).
- 4. At the next meeting of the Commission, the Commission, or prior to the next meeting of the Commission the zoning administrator in consultation with the Chair of the Commission, shall:
 - a. establish a budget for the services of the expert(s), meeting costs, zoning administration expenses;
 - b. send an invoice to the applicant for the remaining budgeted amount, with an explanation the applicant shall provide the Commission within ten (10) days, in writing, that
 - (1) he will withdraw the application, or
 - (2) will proceed and pay the balance of the additional fees based on the budget.
 - c. The fee shall be deposited with the Treasurer who shall keep an accurate accounting of the funds in the same fund established in section ___ of this Ordinance. If the applicant does not deposit the required amount, no further action on the application shall be taken and it will be deemed denied without prejudice under section ___ of this Ordinance.
 - d. The Commission shall use the additional fee to pay the services of the expert(s), meeting costs, zoning administration expenses.
- 5. Any additional actual costs incurred in processing such application shall be paid before permit is issued, and may be required to be payable in increments as review of the application progresses. The additional costs shall be for no more than the actual cost (so not additional revenue is generated) of processing the application. No part of such actual cost shall be returnable to the applicant. If there are any remaining monies in the account upon conclusion of the application, those monies shall be returned to the applicant.
- 6. The deposit required by this section is in addition to any security required elsewhere in this Ordinance.

- D. Other than provided for additional costs provided for above, no part of the fee shall be refundable.
- E. On a case-by-case basis legislative body may wave part or all of any fee if the applicant is found to be indigent, an agent of the local government, or a non-profit civic, service, or volunteer organization in the local government.

Zoning Administrator Pay

The zoning administrator should be paid a wage (per hour) or salary (per year). The zoning administrator should **not** be paid on the basis of a per permit, or a percent of permit fees collected. No matter how little the pay is, it is a job, and the zoning administrator is an employee of the municipality.

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