

## 1.2 REFUNDING AND WAIVING PLANNING AND BUILDING FEES

(ADOPTED 29 JUNE 2011)

**AUTHORITY:** TOWN PLANNING SCHEME NO. 4; PLANNING AND DEVELOPMENT REGULATIONS 2009; BUILDING REGULATIONS 1989

### PURPOSE

This policy outlines the circumstances where the City may refund or waive planning fees charged in accordance with the *Planning and Development Regulations 2009* and building application fees charged in accordance with the *Building Regulations 1989*.

### STATUTORY BACKGROUND

Planning fees are imposed in accordance with Part 7 and Schedule 2 of the *Planning and Development Regulations 2009*. The prescribed planning fees are a maximum amount and may be waived or refunded (in whole or part) under regulation 52. A local government is also permitted under regulation 49 to recover costs and expenses incurred in the provision of specified services.

Fees for a Building Licence and a Building Approval Certificate are imposed in accordance with Part 6 of the *Building Regulations 1989* and the fees are set by these Regulations.

The Schedule of Fees and Charges, adopted with the Council's annual budget, contains the fees set for the current financial year.

### POLICY

#### 1. Personal circumstances

Financial hardship, personal or family circumstances will not ordinarily be considered to be grounds for the waiving or refunding planning or building licence fees.

#### 2. Waiving of Planning and Building Fees

Planning fees will not ordinarily be waived in their entirety except under the provisions of section 4 of this policy or by a resolution of the Council. Building fees will not be waived under any circumstances.

#### 3. Partial Waiver of Planning Fees

An application for partial waiver of planning fees may be approved by the Director Development Services. Circumstances in which such an application will ordinarily receive favourable consideration include:

- (a) Where the application relates to development of a property listed on the city's Register of Places of Cultural Heritage Significance and
  - (i) the sole purpose of the proposed development is to restore or conserve the heritage attributes of a significant building and/or site; and
  - (ii) the value of the development is less than \$500,000

OR

- (b) Where the applicant is a "not for profit" organisation and:
  - (i) has obtained an income tax exemption status from the Australian Taxation Office; and
  - (ii) the application is either for a change of use OR has a value of less than \$500,000.

Where an application for a partial waiver of fees is made under (b) above, the applicant will be required to provide sufficient proof of current "not for profit" status at the time of submitting the request.

Ordinarily, a successful application will result in a reduction of 50% of the applicable planning fee.

#### **4. Register of Places of Cultural Heritage Significance**

There are a number of circumstances where owners (or applicants) are subject to greater obligations or constraints in gaining planning approval prior to undertaking the development of a property included on the Register of Places of Cultural Heritage Significance under Town Planning Scheme No. 4. Through the application of this policy, the City seeks to encourage the conservation and enhancement of Subiaco's built heritage through the conservation and restoration of significant places and by facilitating appropriate and sensitive redevelopment.

Landowners (or applicants) of premises included on the Register of Places of Cultural Heritage Significance will have the planning (development) application fees waived in their entirety in the following circumstances:

- (a) Where the proposed development would not otherwise require the submission of an application for planning (development) approval under clause 23 of the Scheme (ie it would otherwise be "exempt" development); or
- (b) Where the proposed development consists solely of the demolition of non-original fabric and which has no adverse impact on the heritage significance associated with the place.

For the purpose of clarity, the waiver of planning application fees under this section does not apply to any fees that may be charged for the clearance of subdivision conditions; applications for rezoning; an application relating to an unauthorised existing development or use under clause 24 of the Scheme; or any costs and expenses referred to in section 5 of this policy.

#### **5. Refund of Planning Fees where application withdrawn**

The City will consider a written request for the refund of planning fees where the development application is withdrawn prior to a determination being issued. Ordinarily these requests will be granted in the following circumstances:

- (a) Where, in the opinion of the Manager Planning Services, no assessment work has been undertaken by the City and the application is subsequently withdrawn in writing within seven days of the date of application, 90% of the application fee will usually be refunded; or
- (b) Where assessment work has commenced by the City, a refund of 50% of the application fee will ordinarily be approved where:
  - (i) the application has not been advertised; and
  - (ii) the application is withdrawn in writing by the applicant within fourteen days of the date of lodgement of the application.

#### **6. Costs and Expenses**

The City will not ordinarily waive or reduce any costs or expenses that may be charged to an applicant where these are incurred through the provision of a service under Regulation 49 of the *Planning and Development Regulations 2009* regardless of whether the application fee has been wholly or partly waived.

#### **7. Unauthorised Existing Development**

The waiver or refund of planning fees will not ordinarily apply to applications made under clause 24 of Town Planning Scheme No. 4 where a use or development has already been commenced or carried out unlawfully and the purpose of the application is to render that use or development lawful under the Scheme.

#### **8. Building Licence Fees**

The *Building Regulations 1989* do not make provision for a Building Licence to be transferred to another builder and therefore a change in the building contractor requires the issue of a new licence.

The City will impose the amended building licence administration fee(s) adopted annually under the City's Schedule of Fees and Charges only for the issue of a new licence in this circumstance where:

- (a) the proposal is not for a Building Approval Certificate; and
- (b) a landowner nominates a new builder to undertake works that had previously been licensed by the City to another builder; and
- (c) in the opinion of the Manager Building and Health Services, the building plans are identical and producing the licence in the new builder's name is an administration action only, with no reconsideration of the documents being required.

In all other circumstances, the full fee is required to be paid. The City will not refund the Building Licence fees payable for the issue of the original Licence.