

## **CHAPTER FIVE: PLANNING, ZONING, USE, AND DEVELOPMENT OF LAND AND IMPROVEMENTS**

### **Subchapter 5.14: Development Processing Fees**

#### **5.14.010 Purpose and Findings.**

This chapter is adopted to ensure that the city is reimbursed for its costs of providing services to applicants for development projects and to the extent advisable, provide uniformity with respect to such provisions.

[History: ORD. 646, 7/12/06]

#### **5.14.020 Application.**

(a) The provisions of this subchapter shall apply to all applications for entitlements or permits for development projects, and to the preparation or review of CEQA documents in connection with development projects, except as follows:

- (1) Administrative Use Permit
- (2) Home Office Permit
- (3) Use Permit, Minor
- (4) Tree Removal Permit
- (5) Sign Permit
- (6) Sign Review
- (7) Temporary/Short Term/Administrative Use Permit
- (8) Design Review, Minor; and
- (9) Zoning Clearance for Retail Merchandising Unit.

(b) Without limiting the generality of the foregoing, the provisions hereof shall apply to the following permits and CEQA documents:

- (1) Design review, Major
- (2) General Plan Amendment
- (3) Lot Line Adjustment
- (4) Parcel Map
- (5) Planned Development Plan
- (6) Subdivision Map
- (7) Use Permit, Major
- (8) Variance
- (9) Zoning Reclassification
- (10) Review or Preparation of Negative Declaration
- (11) Review or Preparation of Environmental Impact Report

[History: ORD. 646, 7/12/06; ORD. 730, 11/13/13]

#### **5.14.030 Payment of Deposit and Processing Costs.**

(a) No application for a development project may be filed without a deposit in an amount

estimated to cover processing costs unless payment of processing fees have been waived by action of the Council, or the applicant is a public entity exempted from payment of such fees.

(b) After an application for a development project has been determined to be complete by the Town, the Town may request the deposit of additional processing fees in accordance with Section 5.14.040(b) of this subchapter. Such fees shall be paid within five days of the Town's request for the same, and the Town may pursue one or more remedies set forth in section 5.14.090 of this subchapter in order to collect such fees.

(c) Each applicant for or operator of a development project, as well as the owner of the subject property, if different, shall be liable for payment of all deposits and processing fees associated with the development project.

[History: ORD. 646, 7/12/06; ORD. 687, 1/13/10]

#### **5.14.040 Determination of Processing Costs and Deposits.**

(a) The processing costs shall be determined by multiplying the hourly billing rate for the person investigating, reviewing, processing or recommending action with respect to a development project times the amount of time spent on those activities plus all reimbursable expenses.

(b) The amount of the initial deposit shall be set forth in the Town's Master Fee Schedule. When it appears that the actual costs have exceeded or will soon exceed the deposit on hand, the Town may request an additional deposit equal to the initial deposit, provided that the cumulative amount of all deposits for processing fees incurred by the Town may not exceed three times the initial deposit set forth in the Master Fee Schedule plus all reimbursable Town costs.

(c) Whenever a subsequent deposit is requested, and upon approval, disapproval or withdrawal of the project application, and upon reasonable request of the applicant, the Town shall render an invoice describing the time and nature of work charged as development processing costs.

(d) Except for fees for preparing or reviewing CEQA documents, the development project processing fee shall not exceed three times the initial deposit set forth in the Master Fee Schedule plus all reimbursable Town costs.

(e) Notwithstanding anything to the contrary herein:

- (1) There shall be no maximum or cap on fees to prepare or review CEQA documents or any noise, traffic, air quality, historic resources and similar studies prepared by outside consultants to the Town;
- (2) Under the terms of a Development Agreement with the Town, an applicant may waive the maximum or cap; and
- (3) The development project processing fee shall not be unreasonable.

[History: ORD. 646, 7/12/06; ORD. 726, 10/9/13]

#### **5.14.045 Use of Fees.**

The Town shall deposit all processing fees imposed for the filing and processing of development project applications into an account separate from the general fund, and shall comply with Government Code Section 66006 in the expenditure of such fees.

[History: ORD. 730, 11/13/13]

#### **5.14.050 Multiple Applications.**

(a) The initial deposit for multiple applications from a single source for a development project shall be the total of all initial deposits for applications for that development project.

(b) The processing fee for multiple applications will include the cost of processing application for permits that otherwise would require a flat fee. However, in calculating the initial deposit under the preceding paragraph, the flat fee will not be included in the initial deposit.

[History: ORD. 646, 7/12/06]

#### **5.14.060 Refund of Unused Deposit.**

Within sixty days after approval, disapproval or withdrawal of a development project application, Town will refund any unused deposit, without interest. Thereafter, interest will accrue on any unreturned deposit at the rate of interest received by the Town on investments with the Local Agency Investment Fund (LAIF).

[History: ORD. 646, 7/12/06]

#### **5.14.070 Billing rates.**

(a) The hourly rate to be billed by employees, agents, and consultants of the Town as processing costs shall be periodically calculated by the City Manager to cover the salaries and benefits payable to the employee, agent or consultant, and shall be posted on the Town's website. Rates will be calculated in 15-minute increments. In no event shall the rates exceed the estimated reasonable cost of the services provided.

(b) The charges for in-house reimbursable processing expenses, e.g., copying costs, shall not exceed the amounts set forth in the Master Fee Schedule.

(c) All expenses billed to the Town by outside vendors, for example, copying costs by outside service providers, shall be billed to cover the actual cost incurred by the Town.

[History: ORD. 646, 7/12/06; ORD. 722, 6/12/13]

#### **5.14.080 Billing records.**

All processing costs associated with the investigation, processing, inspection or review of development projects, or the enforcement of applicable regulations and conditions to development projects shall be recorded and charged to each such project.

[History: ORD. 646, 7/12/06]

**5.14.090 Remedies for Failure to Pay Processing Fees or Deposits.**

(a) The Town may pursue one or more of the remedies described in this section for failure to pay processing fees or to make any deposit required by this subchapter.

(b) The failure to pay processing fees or deposits required by this subchapter shall constitute a nuisance which may be abated as set forth in Subchapter 2.01 of the Colma Municipal Code. The Town may impose a lien upon and enforce a lien against the property which is the subject of the development project in accordance with the procedures set forth in Subchapter 2.01 of the Colma Municipal Code.

(c) The City Council may deny a development project application for failure to pay processing fees or deposits in violation of this subchapter if, after notice, the responsible party(ies) fail to comply with the provisions of this subchapter. The applicant and/or operator shall be given not less than ten calendar days mailed notice of the city's intent to take such action.

(d) The City Planner, Public Works Director, Chief Building Official, or Code Enforcement Officer, may issue a stop work order for failure to comply with the provisions of this subchapter if the job site has previously been posted with a notice of intent to issue a stop work order. The stop work order shall be served by posting a copy of the order on the subject property. In addition, a copy of such notice shall be promptly mailed to the applicant or operator and, if different, the owner of the subject property as shown on the last equalized assessment roll. Such order shall become effective immediately upon posting of the notice. After service of a stop order, no person shall perform any act with respect to the subject property in violation of the terms of the stop order, except such actions as the city determines are reasonably necessary to render the subject property safe and/or secure until the violation has been corrected.

(e) The City Attorney may bring an action may be brought in the name of the city, in any court of competent jurisdiction to enforce a lien established or to collect the fees. In such action, reasonable attorney's fees shall be awarded to a prevailing plaintiff.

(f) The City Manager, or his/her designee, may bring a small claims action in the name of the city to collect the fees owing pursuant to Section 5.14.030(b).

[History: ORD. 646, 7/12/06]

**5.14.100 Remedies Separate and Cumulative.**

The remedies herein shall be separate and distinct from each other and in addition to all other remedies provided by the Colma Municipal Code and the laws of the State of California.

[History: ORD. 646, 7/12/06]