



## CITY OF FREMANTLE

### LOCAL PLANNING POLICY 1.2

#### REFUNDING AND WAIVING / REDUCING OF PLANNING AND BUILDING FEES

**ADOPTION DATE:** 23 July 2008

**AUTHORITY:** LOCAL PLANNING SCHEME NO.4; PLANNING AND DEVELOPMENT (LOCAL GOVERNMENT PLANNING FEES) REGULATIONS 2000; BUILDING REGULATIONS 1989

This policy outlines the circumstances where the City may consider an application for the refund, reduction or waiving of planning fees charged in accordance with the *Planning and Development (Local Government Planning Fees) Regulations 2000* and building application fees charged in accordance with the *Building Regulations 1989*.

#### STATUTORY BACKGROUND

Planning fees are imposed in accordance with Regulation 4 and Schedule 1 of the *Planning and Development (Local Government Planning Fees) Regulations 2000*. The prescribed fees are a maximum amount which may be reduced in accordance with regulation 7 or waived or refunded (in whole or part) under regulation 14. Regulation 8 also permits a local government to recover costs and expenses incurred in the provision of a specified service. Building Licence fees are imposed in accordance with Part 6 of the *Building Regulations 1989*.

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

#### POLICY

1. Council does not consider financial hardship, personal or family circumstances to be grounds for the waiving or reduction of planning fees.

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

Planning fees will not be waived under any circumstances except by a resolution of the Council. Building fees will not be waived under any circumstances.

#### 3. Reduction of Planning Fees

An application for a reduction in planning fees by 50% may be approved under the following circumstances:

- (a) Where the development is of less than \$50,000 in value and the application is, in the opinion of the Manager Development Services, similar to a previous application determined during the preceding year to the point where previous assessment work can significantly contribute to the assessment of the new application.

OR

- (b) Where the applicant is a “not for profit” organisation and has obtained an income tax exemption status from the Australian Taxation Office.  
OR
- (c) Where the application is for a home occupation only under the Federal Government’s New Enterprise Incentive Scheme (NEIS).

Where an application for a fee reduction is made under (b) or (c) above, the applicant will be required to provide sufficient proof at the time of submitting the request.

#### **4. Refund of Planning Fees**

The City will consider a written request for the refund of planning fees where the application is withdrawn prior to a determination being issued only in the following circumstances:

- (a) Where, in the opinion of the Manager Development Services, no assessment work has been undertaken by the City and the application is subsequently withdrawn in writing within seven (7) days of the date of application, 90% of application fee may be refunded.
- (b) Where assessment work has commenced by the City, a refund of 50% of the application fee may be approved where:
  - (i) The application has not been advertised; and
  - (ii) The application is withdrawn in writing by the applicant within twenty one (21) days of lodgement of the application.

#### **4a. Refund of Planning Fees during COVID-19 recovery period.**

For a temporary period of two years from the date of adoption of this part of the policy [26 August 2020], the City will on written request from the applicant refund the fee for an application which has been granted planning approval and all of the following circumstances apply:

- (i) The approved development includes 10 or more new build dwellings (single, grouped, and/or multiple dwellings) and/or 1,000 square metres or more of new build Gross Lettable Area floorspace for one or more commercial uses.
- (ii) The request for refund of the fee must be supported by evidence that a building permit(s) has been issued for all elements/stages of the approved development, and construction has commenced in accordance with the planning approval and building permit(s).
- (iii) The date for substantial commencement of the development specified in the planning approval (as amended by the additional 2 years automatically deemed to apply under clause 4.2 of the State of Emergency Clause 78H Notice of Exemption dated 30 April 2020) has

not passed, and no other extension to the term of the planning approval has been sought.

- (iv) The development must not have commenced prior to the date of adoption of these policy provisions by the Council.
- (v) Refunds will only apply to applications determined by the City of Fremantle or a Development Assessment Panel. In the case of applications approved by a Development Assessment Panel, the refund will only be for the portion of the original application fee retained by the local government, not the portion payable to the Development Assessment Panel.

## **5. Costs and Expenses**

The City will not 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 8 of the *Planning and Development (Local Government Planning Fees) Regulations 2000* regardless of whether a reduced application fee under 3(a), (b) or (c) has been approved.

## **6. Variations to Planning Approvals**

A reduction in fees shall not apply to applications to vary a planning approval which has already been granted unless the need for such an application is solely attributable to a previous administrative error in which case no fee will be charged.

## **7. Unauthorised Existing Development**

The reduction or refund of planning fees will not under any circumstances apply to applications made under clause 8.4 of Local 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 provisions 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 minimum building licence application fee(s) only for the issue of a new licence in this circumstance where:

- (a) a landowner nominates a new builder to undertake works that had previously been licensed by the City to another builder; and
- (b) in the opinion of the Principal Building Surveyor, the building plans are identical and the act of producing the licence in the new builder's name is an administration issue 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.

#### **Review information and related documentation**

<b>Reviewing officer:</b>	Manager Strategic Planning
<b>Policy adopted:</b>	23 July 2008
<b>Policy amended:</b>	26 August 2020 - SPT2008-4
<b>Legislation:</b>	Planning and Development (Local Planning Schemes) Regulations 2015; Planning and Development Act 2005
<b>Delegations:</b>	NA
<b>Related documents:</b>	NA
<b>Next review date:</b>	25 May 2022