

Planning Fee Guide

Overview of Section 51 of *The Planning and Development Act, 2007*

2023

Introduction

Growth and development bring many social and economic benefits to a community. However, facilitating growth may also come with associated costs. *The Planning and Development Act, 2007* (Act) contains mechanisms for municipalities to establish planning application fees to recoup some of the operational costs associated with the administration of municipal planning bylaws. The purpose of this guide is to outline the mechanisms available to municipalities under section 51 of the Act.

Section 51 of the Act authorizes the council to prescribe, in a zoning bylaw or separate fee bylaw, a schedule of fees for the application, review, advertising, approval, enforcement, regulation and issuance of certain classifications of applications. Fees may be established related to:

- A development permit;
- A discretionary use;
- A minor variance; and
- An amendment to an official community plan or zoning bylaw.

Only a subdivision approving authority can prescribe fees for the review and processing of subdivision applications.

When setting fees, the council must justify the prescribed amount in the form of a fee rationale document. The fees set must be cost recovery or less and cannot be used to generate revenue for the municipality. It is important for fees to be transparent and allow prospective applicants the ability to estimate their costs before applying to the municipality. This reduces the opportunity for municipalities to be challenged on the planning fees.

Council does not have the authority to charge fees using section 51 unless they have adopted a fee bylaw or have specified the fees in the zoning bylaw.

Fees which rely on authority from other legislation, such as *The Municipalities Act*, should be collected using mechanisms provided in those other Acts. For example, if a municipality charges a service connection fee under the authority of *The*

Municipalities Act, they should not use a servicing agreement under *The Planning and Development Act, 2007* to collect the fee. By keeping the fees separate and using the appropriate tools in each piece of legislation, there is less opportunity for confusion.

Calculating Fees

There are a variety of ways a municipality may choose to calculate planning fees. Most methods require some form of estimation or tracking of the time it takes an administrator or other employee to review each type of application.

Complexity of Review

Planning fees can vary depending on the size, type, and complexity of the application. An option for calculating fees is to use a fee range based on the expected complexity of the application. This method is typically considered to be more accurate from a cost recovery perspective. Using this method, the council may choose to charge a fee for each subcategory of application. For

Complexity Cost Example:

Permitted Use = \$100
Discretionary Use Type 1 = \$200
Discretionary Use Type 2 = \$300

example, a development permit for a permitted use may have a lesser fee than a discretionary use. Some discretionary land uses may also require a more comprehensive review than others. In those cases, the council may choose to distinguish between more complex reviews and set their fees accordingly. If using this method, it is important to clarify in the bylaw containing the fees which land uses are considered more complex.

The most common approach for calculating fees is to use the average review time multiplied by the wage of the staff reviewing the application. For example, if a simple permitted use permit takes two hours to review, and the staff wage is \$50/hr, then the permitted use permit fee would be \$100. This approach can be taken to calculate fees for each type of permit, land use, or application.

Average Cost Example:

Permitted Use = \$100
 (Average time to review) x (staff wage)

Other Considerations

If a municipality chooses to use a third-party consultant for the review of applications, they should work with their consultant to determine appropriate fees based on the consultant's hourly rate. It is important to note that if a municipality utilizes a consultant for other tasks outside of the eligible processes listed in section 51 of the Act, those costs cannot be included in any prescribed fees.

The Act allows municipalities to adopt official community plans and zoning bylaws. If adopted, they give a municipality the ability to manage development in the community. Establishing council's authority via these bylaws is an up-front municipal cost.

Regardless of the approach municipalities choose to use to calculate prescribed fees, it is important for fees to be reviewed regularly to ensure they remain accurate. Municipalities may find it beneficial to keep track of the amount of review time required for each application type, to assist with conducting reviews of the established fee. It is also recommended that the municipality conducts a fee review periodically.

The table below outlines the items and processes which can and cannot be included in a planning fee:

<i>What may be included</i>	<i>What may not be included</i>
Review time	Council meetings and public hearings ¹
Public notice and advertising	Time spent on general development inquiries
Enforcement	Review of subdivision applications ²
Site inspections	Infrastructure and services ³
Cost of mapping or drafting services	Upfront cost of adopting new bylaws

¹ Council meetings and public hearings are procedures required in legislation as part of normal operations for a municipality. The costs of these meetings cannot be charged back to an applicant unless an applicant has asked for a special meeting outside of the regular schedule. In those circumstances, provisions of *The Municipalities Act* should be consulted.

² Unless the municipality is an approving authority pursuant to section 13 of the Act.

³ These items may be collected through a development levy bylaw pursuant to section 169 of the Act or servicing agreement pursuant to section 172 of the Act. For more information on servicing agreements and development levies, visit [Saskatchewan.ca](https://www.saskatchewan.ca).

For additional information on justifying planning fees, a Planning Fee Rationale sample can be found on [Saskatchewan.ca](https://www.saskatchewan.ca).

Development Appeals

Section 219 of the Act provides development applicants with a right of appeal for certain zoning-related matters. While not an item listed in section 51, development appeal application fees are typically included in planning fee bylaws for ease of use. The Act allows municipalities to charge a maximum appeal application fee of \$300, to ensure that appeals remain attainable for all applicants. Most development appeal boards are composed of volunteers appointed by council, who may receive an honourarium for their time. This helps to keep the administrative costs of appeals low, since municipalities are limited in how much they can charge.

For further information on development appeals, please visit [Saskatchewan.ca](https://www.saskatchewan.ca).

Development Levies and Servicing Agreement Fees

In addition to administrative costs for reviewing development proposals, municipalities may also incur capital infrastructure costs associated with new development. Part VIII of the Act addresses the mechanisms available to municipalities to recover specific infrastructure-related costs. Fees under this Part are not eligible to be included in a planning fee bylaw pursuant to section 51. Calculating fees under Part VIII should involve a servicing study to identify the infrastructure needed to accommodate growth.

For further information on development levies and servicing agreement fees, please visit [Saskatchewan.ca](https://www.saskatchewan.ca).

How to Apply Fees

Planning fees should be collected at the time of application to reduce the potential for non-payment later. If an applicant has not paid review fees at the time of application, the municipality has little recourse to seek collection post-approval. For example, planning fees under section 51 are not eligible to be added to municipal property taxes in the same way fees under other municipal Acts may be. There is also no authority in the Act for a municipality to charge interest on any unpaid planning fee. There is less risk to the municipality when fees are collected at the time of application and before any work has been done to review the application. Applicants should be aware of the full cost of their application before they apply, which increases transparency and reduces the chance of non-payment.

If an application takes longer to review or exceeds the initial amount collected through the planning application fee, the municipality is unable to request payment of additional fees. This highlights the importance of establishing an appropriate amount in the planning fee bylaw. If an applicant substantially changes their proposal in the middle of the process, the municipality may choose to charge a second application fee to review the new proposal.

Municipalities may not seek additional fees later in the review process or post-approval.

A Balanced Approach

Municipalities have flexibility on how they choose to manage municipal costs associated with land use planning. Some communities choose to balance cost-sharing with cost-recovery as a way to help facilitate growth and development in the community. Others apply a cost-recovery approach but utilize tax incentives to achieve the same goal. Regardless of the approach taken, it is important for every municipality to understand the costs and benefits associated with their choice.

Land use planning is often considered a community service which brings overall benefits to all residents and businesses. The Government of Saskatchewan also provides municipalities with unconditional revenue sharing that may be put towards any municipal operation including planning and development. Setting a reasonable rate for planning fees is one way in which municipalities may promote growth and development in their communities while balancing its associated costs.

For more information on planning fees, please contact Ministry of Government Relations' Community Planning branch via email at muninfo@gov.sk.ca, communityplanning@gov.sk.ca, or:

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