

LAND DEVELOPMENT SERVICES
June 6, 2023

STAFF REPORT

- PROPOSED COUNTY CODE AMENDMENT
- PROPOSED PFM AMENDMENT
- PROPOSED ZONING ORDINANCE AMENDMENT
- APPEAL OF DECISION
- WAIVER REQUEST

Proposed Amendment to Appendix Q (Land Development Services Fee Schedule) of *The Code of the County of Fairfax, Virginia* (County Code)
Re: Site Inspection Fees for Bond Agreement Extensions

PUBLIC HEARING DATES

Authorization to Advertise: June 6, 2023
Planning Commission Hearing: June 28, 2023 at 7:30 p.m.
Board of Supervisors' Hearing: July 25, 2023 at 4:30 p.m.

Prepared By: John Friedman
Site Code Research and Development Branch
Land Development Services
(703) 324-1848

STAFF REPORT

STAFF RECOMMENDATION

Staff recommends that the Board of Supervisors (Board) adopt the proposed amendment to Appendix Q (Land Development Fee Schedule) of the County Code. Edits are shown by underlining for added text and strikethrough for deleted text.

DISCUSSION

On December 7, 2021, the Board adopted amendments to the Land Development Services Fee Schedule with the amendments related to Vertical Transportation and Elevators effective on December 8, 2021, and the other amendments, including site inspection fees, effective upon launch of the Planning and Land Use System (PLUS) on October 31, 2022. After implementing the new fees for 6 months, LDS recommends reverting to the previous Inspection Fee for Agreement Extensions pending further study and future changes.

The current fee for site inspections for site plans, subdivision plans, and public improvement plans is based on a percentage (either 3% or 4% depending on plan type) of the dollar value of bonded improvements. To simplify the computation of inspection fees and the associated administrative burden on staff and customers, the costs for inspecting erosion and sediment (E&S) controls are included in the computation of inspection fees based on the bonded improvements. If there are no bonded improvements, the owner pays the minimum fee for that plan type to cover E&S control inspections and determine compliance with the approved plan. Inspection fees are paid at or before permit issuance for the duration of the chosen agreement period and the owner posts a bond with the County for completion of the public improvements.

When agreements must be extended because projects are not yet completed, additional inspections for the added project duration are required. A fee is charged to cover the cost of these additional inspections. The inspection fee for agreement extensions was modified with a new calculation method effective in the 2022 fee changes. The inspection fee for agreement extensions is currently 75% of the original inspection fee converted to a monthly value based on the length of the original agreement which is then multiplied by the length of the extension in months.

Prior to adoption of the current fee schedule, inspection fees for site-related plans were calculated based on both the number of disturbed acres and specific bonded improvements. Inspection fees for agreement extensions were calculated based on the number of disturbed acres without considering the bonded improvements, which is a method that only accounts for the continuing inspection of E&S controls.

LDS has received 50 requests for agreement extension since the fee change became effective. Of those 50 requests, 49 have a higher inspection fee while one is lower than the fee that would have resulted from the prior method. Cumulative inspection fees assessed are 339% higher than under the previous method. The average inspection fee for an agreement extension is equivalent to \$188.17 per disturbed acre per month versus the previous fee of \$46.26 per disturbed acre per month. Because the current method is based on the value of bonded items, smaller projects have seen proportionally greater fees per acre of project.

After six months of implementing this new fee schedule, LDS believes the inspection fee formula warrants further review and modelling to ensure it accurately reflects the inspection costs for agreement extensions. LDS will engage a consultant to review LDS fees in Appendix Q and associated costs for delivery of services. The review is expected to be completed within twelve months and will inform a comprehensive fee schedule update. To address immediate concerns with the current inspection fee for agreement extensions, the proposed amendment will reinstate the fee that existed prior to adoption of the current fee schedule. No change to the current inspection fee for the original agreement is proposed.

As explained in more detail in the Fiscal Impact section, this change will, on average, reduce fees for customers and have a negative impact on the LDS budget.

PROPOSED AMENDMENT

The proposed amendment to Appendix Q of the County Code computes the inspection fees for an agreement extension as follows:

- \$46.26 per disturbed acre per month.
- A one-time fifty-percent reduction of the extension inspection fee may be permitted (This allowance is in both the existing and prior provisions and is being retained with the proposed amendment.).

The proposed amendment is attached to this report.

EQUITY IMPACT

The proposed amendment supports a quality built and natural environment that accommodates anticipated growth and change in an economically, socially, and environmentally sustainable and equitable manner that includes mixes of land use that protects existing stable neighborhoods and green spaces, supports sustainability, supports a high quality of life, and promotes employment opportunities, housing, amenities and services for all people. Industry has indicated to LDS that the new pricing calculation for agreement extensions that went into effect on October 31, 2022, is a burden to their projects. The current agreement extension costs are significantly higher than the prior calculations. Projects that are funded by nonprofits and community groups with modest budgets tend to use smaller contractors who may not be familiar with

Fairfax County's policies and practices. If those projects require multiple extensions, a greater cost will be incurred, which can be untenable to the project. Coupled with increased materials costs and general inflation, these new costs have the potential to exceed project budgets.

Reverting to the prior calculation provides consistency and predictability in uncertain financial times to the projects underway in the County. This benefits those community-serving projects with tighter funding as they proceed through construction. It is expected that the results of the LDS consultant's fee analysis will provide a more equitable fee schedule for all customers while providing sufficient revenue for LDS to provide its services. This proposed change has the potential to advance equity throughout the County by reducing the costs associated with the construction of public infrastructure including sidewalks, trails, street lights, and stormwater management facilities.

REGULATORY IMPACT

The proposed change to the inspection fee for agreement extensions will reduce the costs for agreement extensions paid by customers. This will impact approximately 100 plans per year.

FISCAL IMPACT

An analysis of the proposed change to the inspection fee for agreement extensions indicates that the change will have a negative impact on LDS revenue in Fund 40200. Staff reviewed inspection fees charged for 50 agreement extension requests submitted in the six-month period immediately following the effective date of the current fee schedule and determined what the fee would be under the proposed change. Table 1 below reflects the projected change in annual revenue assuming 100 agreement extension requests per year. LDS projects a 77% reduction in annual revenue for agreement extensions. The dollar amount of the loss for FY2024 will be slightly smaller because the change in fees will only be in effect for approximately eleven months. While the loss in revenue seems substantial, this proposed change corrects the calculation for inspection fees for agreement extensions in a way that benefits customers and allows LDS to continue providing services. County staff will continue to monitor the status of this fund and provide updates, if necessary, as part of future quarterly budget reviews.

Table 1: Projected Annual Revenue

Fee	Current Fee Schedule	Proposed Fee Schedule	Change
Inspection Fee for Agreement Extensions	\$1,814,900	\$413,400	(\$1,400,600)

ATTACHED DOCUMENTS

Attachment 1– Amendment to Appendix Q (LDS Fee Schedule)

**Proposed Amendment to
Appendix Q (Land Development Services Fee Schedule) of
The Code of the County of Fairfax, Virginia**

Amend Part II (Site Development Fees), Section C (Site Inspection Fees), where insertions are underlined and deletions are struck, to read as follows:

C. SITE INSPECTION FEES		
<p>Unless otherwise noted, the following fees shall be paid at the time of bonding, or prior to issuance of a construction permit for land disturbing activity, whichever occurs first. The Fire Prevention inspection fees are listed in Part D.</p>		
<p><i>(A) Base Fee for Projects with Bonded Improvements including agreement only plans: Fee is based on a percentage of the bonded amount</i></p>		
	• Major Site Plans	4.0%
	◦ With a minimum of	\$7,500
	◦ With a maximum of	\$230,000
	• Subdivision Plans	3.0%
	◦ With a minimum of	\$20,000
	◦ With a maximum of	\$150,000
	• Public Improvement Plans	4.0%
	◦ With a minimum of	\$5,500
	◦ With a maximum of	\$35,000
<p><i>(B) Inspection Fee for Agreement Extensions: 75% of the base inspection fee for the now expired bond agreement period divided by the number of months in the preceding bond agreement period, then multiplied by the number of months in the extension. <u>Per disturbed acre, per agreement month.</u> A one-time fifty-percent reduction of the extension inspection fee may be permitted.</i></p>		<p><u>\$46.26</u></p>

(C) <i>Inspection following a stop work order</i> : each, payable at next bonding action	\$740.00
(D) <i>Inspection following a violation</i> : each inspection, payable at next bonding action	\$370.00