

Effective Date: 2/1/05

AN ORDINANCE CONCERNING THE ADOPTION OF A SCHEDULE OF FEES  
FOR THE PROCESSING OF LAND USE APPLICATIONS

BE IT ENACTED:

Pursuant To the provisions of Section 8-1c of the *Connecticut General Statutes*, there is hereby established the following schedule of fees for processing various land use applications. This schedule amends the schedule established in an ordinance adopted March 3, 1986.

1. General Schedule

- a. For an application to the Inland Wetlands and Watercourses Agency, \$20.00;
- b. For an application to the Zoning Board of Appeals, \$75.00;
- c. For an application seeking site plan approval or the granting of a special exception, \$40.00, plus a sum to be computed by the Town Engineer, equal to three percent (3%) of the estimated cost of the public improvements required by the approving Commission or Board to be paid prior to the endorsement of the record map;
- d. For an application seeking a special permit for a multi-family complex, the minimum fee shall be \$100.00 for each application and the maximum fee shall be \$100.00 per dwelling unit, plus a sum, to be computed by the Town Engineer, equal to three percent (3%) of the estimated cost of the public improvements required by the approving Commission or Board to be paid prior to the endorsement of the record map;
- e. For an application seeking approval of a subdivision plan, the minimum fee shall be \$100.00 for each application and the maximum fee shall be \$100.00 for each lot within the planned subdivision, plus a sum, to be computed by the Town Engineer, equal to three percent (3%) of the estimated cost of the public improvements required by the approving Commission or Board to be paid prior to the endorsement of the record map;
- f. For any other application to the Planning and Zoning Commission except an application for a solid waste facility as described in Section 2, \$40.00.

2. Application for Solid Waste Facility

- a. Definitions.

For purposes of this Ordinance:

“Person” means any individual, firm, partnership, association, syndicate, company, trust, corporation, municipality, agency or political or administrative subdivision of the state, or other legal entity of any kind.

“Solid waste facility” means any solid waste disposal area, volume reduction plant, or resource recovery facility or biomedical waste treatment facility operated by any municipal or regional authority or any person if such area, plant or facility handles more than five tons a year of solid waste or any amount of biomedical waste.

“Solid waste disposal area” means the location utilized for ultimate disposal of wastes.

“Solid waste” means unwanted or discarded materials including solid, liquid, semisolid or contained gaseous material.

“Volume reduction plant” means a plant designed primarily for the purpose of reducing the volume of solid waste which must finally be disposed of, including but not limited to incinerators, pulverizers, compactors, shredding and baling plants, transfer stations, and compost plants or other plants which accept and process refuse for recycling, reuse and resource recovery.

“Resource recovery facility” means a facility utilizing processes aimed at reclaiming the material or energy values of solid waste.

“Biomedical waste” means untreated solid waste generated during the administration of medical care or the performance of medical research involving humans or animals of which, because of its quantity, character of composition, has been determined by the Connecticut Department of Environmental Protection to require special handling, including infectious waste, pathological waste and chemotherapy waste, but excluding any solid waste which has been classified by the Connecticut Department of Environmental Protection as a hazardous waste pursuant to the *Connecticut General Statutes*, Section 22a-115 or is a radioactive material regulated pursuant to *Connecticut General Statutes*, Section 22a-148.

“Biomedical waste treatment facility” means a solid waste facility capable of storing, treating or disposing of any amount of biomedical waste, excluding any facility where the only biomedical waste treated, stored or disposed of is biomedical waste generated at the site.

b. Fee for Solid Waste Facility Application

When an application is filed with the Planning and Zoning Commission seeking a zone change, zoning approval, special permit or exception and/or site plan approval for construction of a solid waste facility, in addition to the application fee set forth in Paragraph 1 f. of this ordinance the applicant shall pay a minimum fee of \$50,000.00 but not less than 1% of the estimated cost of construction of the solid waste facility including but not limited to all equipment therein and all site improvements thereon. The applicant shall provide upon the filing of the application as statement estimating the total cost of construction. Such estimate shall be subject to review by

the Planning and Zoning Commission, its staff and agents. Payment shall be made to the Town of Durham in the form of a bank check or certified check.

c. Use of Fee for Solid Waste Facility.

Upon receipt of the application fee for the solid waste facility, the Planning and Zoning Commission shall obtain the services of consultants to help review and evaluate the application. Before hiring any consultants other than staff members of the Midstate Regional Planning Agency of Middletown, Connecticut, the Planning and Zoning shall:

1. Refer its written proposal regarding the consultants it proposes to hire to the Board of Selectmen for a report. Failure of the Board of Selectmen to report within ten days after the date of official submission of the proposal to it for a report shall be taken as approval of the proposal.

In the case of disapproval of the proposal by the Board of Selectmen, the reasons for the disapproval shall be recorded and transmitted to the Planning and Zoning Commission. A proposal disapproved by the Board of Selectmen shall be adopted by the Planning and Zoning Commission only upon the favorable vote of not less than two-thirds of all members of the Planning and Zoning Commission.

2. Advise the applicant in writing of the consultants it proposed to hire; and give the applicant ten days from the date of notice to comment on the qualification of those consultants.

Any decision of the Planning and Zoning Commission to hire a consultant or consultants will be final, regardless of the applicant's approval or disapproval.

The consultants shall advise the Planning and Zoning Commission of the effects the proposed solid waste facility might reasonably be expected to have upon the health, safety and welfare of the people of Durham, including but not limited to the effects that the proposed facility might reasonably be expected to have upon the subject property and neighboring properties, natural resources, ground water, air quality, noise levels, volume of traffic and property values.

The Planning and Zoning Commission shall draw upon the application fee to pay for the expenses of having consultants help review, evaluate or process the application, and testify about their reports and conclusions before a court of law should an appeal be taken from the Planning and Zoning Commission's final decision on the application. For purposes of this paragraph "consultant" includes, without begin limited to, staff members of the Midstate Regional Planning Agency of Middletown, Connecticut.

The Planning and Zoning Commission shall keep a separate account of its drawings from the solid waste facility application fee and shall periodically but not less frequently than bimonthly advise the applicant of its expenditures and of the balance remaining from the fee.

Any portion of the application fee which the Planning and Zoning Commission does not expend for the purposes described in this section shall be refunded to the applicant without interest. The refund shall be made within thirty days of the earlier of the following events:

Publication by the Planning and Zoning Commission of legal notice of a final decision, provided no appeal is taken from the Commission's decision; or

Notice of decision by a court of law on any appeal from a final decision of the Planning and Zoning Commission, provided no appeal is taken from the court's decision and the court's decision does not require further proceedings before any lower court or the Planning and Zoning Commission.

d. Exemption for Solid Waste Facility proposed by the Town or Durham/Middlefield Interlocal Advisory Board (DMIAAB).

Any application seeking the approval of the Planning and Zoning Commission for construction of a solid waste facility to be operated by the Town of Durham or by DMIAAB shall be exempt from the payment of the application fee required under this ordinance.

3. Payment of Application Fees

All application fees, including sums required under Section 2 of this ordinance, shall be paid upon the filing of the application.

4. "Public Improvements" Defined

"Public Improvements", for the purposes of this ordinance includes but is not limited to the construction of new roads, improvements to existing roads, storm drainage facilities, water and sewer lines, the setting aside of open space and recreation areas, planting of trees or other landscaping, the installation of retaining walls or other structures and erosion and sediment controls.

5. Validity

If any section, subsection, clause or phrase of this ordinance is for any reason found invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance.

6. Effective Date

This ordinance shall taken effect upon passage and publication according to law.

